

AMENDED IN SENATE JUNE 23, 2008

AMENDED IN SENATE JUNE 14, 2007

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1561**

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**Introduced by Assembly Member Charles Calderon**

February 23, 2007

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An act to amend Sections 17020.6, 17024.5, *17041*, 17052.12, 17063, 17072, 17085, 17132.5, 17152, 17206, 17250, 17250.5, 17275.5, 17501, 17551, 17952.5, 18165, 18180, 18631, 19116, ~~19164~~, *19134*, *19164*, *19166*, *19172*, 19179, 19443, 21015.5, 23045, 23051.5, 23609, 23732, ~~23772~~, 24305, 24349, 24357, 24357.1, 24357.7, ~~24358~~ *24411*, 24949.5, 24990.6, ~~and 24993~~ *24993*, *and 25110* of, to add Sections 17020.15, *17132.8*, *17144.5*, 17202.4, 17257, 17257.2, 17257.4, 17755, 18037.5, 18155.6, *19165*, *19172.5*, 19185, 19186, 23046.5, 23703.7, 24329, ~~24357.15, 24357.16~~, 24462, 24950.5, ~~and 24990.8~~ *23990.8*, *and 25117* to, and to repeal Sections 24981 and 24988 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1561, as amended, Charles Calderon. Taxation: federal conformity.

Under the Personal Income Tax Law and the Corporation Tax Law, various provisions of the federal Internal Revenue Code, as enacted as of a specified date, are referenced in various sections of the Revenue and Taxation Code. Those laws provide that for taxable years beginning on or after January 1, 2005, the specified date of those referenced Internal Revenue Code sections is January 1, 2005, unless otherwise

specifically provided. Existing law requires, for any introduced bill that proposes changes in any of those dates, that the Franchise Tax Board prepare a complete analysis of the bill that describes all changes to state law that will automatically occur by reference to federal law as of the changed date. It further requires the Franchise Tax Board to immediately update and supplement that analysis upon any amendment to the bill, and requires that analysis be made available to the public and be submitted to the Legislature for publication in the daily journal of each house of the Legislature.

This bill would change the specified date of those referenced Internal Revenue Code sections to January 1, ~~2007~~ 2008, for taxable years beginning on or after January 1, ~~2007~~ 2008, and thereby would make numerous substantive changes to both the Personal Income Tax Law and the Corporation Tax Law with respect to those areas of preexisting conformity that are subject to changes under federal laws enacted after January 1, 2005, and that have not been, or are not being, excepted or modified. This bill would make certain other changes in federal income tax laws applicable, with specified exceptions and modifications, and make specified supplemental, technical, or clarifying changes for purposes of the Personal Income Tax Law or the Corporation Tax Law, or both, with respect to, among other things, the tax treatment of certain disaster mitigation payments, depreciation of electric transmission property and natural gas gathering lines, amortization of certain atmospheric pollution control facilities and geological and geophysical expenditures, nuclear decommissioning cost provisions, a small refiner exception to oil depletion deduction, recapture rules for amortizable Section 197 intangibles, amortization of expenses incurred in creating or acquiring music or music copyrights, treatment of certain self-created musical works and qualified retirement income, funding for self-employed defined benefit pension plans and for multiemployer defined benefit pension plans, withdrawals from retirement plans for individuals called to active duty, waiver of an early withdrawal penalty tax on certain distributions of pension plans for public safety employees, allowance of additional IRA payments in certain bankruptcy cases, inflation indexing of gross income limitations on certain retirement savings incentives, treatment of death benefits from corporate-owned life insurance, exemption of income from leveraged real estate held by church plans, gratuitous transfer for benefits of employees, ~~deductions for charitable contributions and tax treatment of certain payments to controlling tax-exempt organizations, contributions of specified real~~

~~property made for conservation purposes, exclusion from gross income with respect to a specified tragic event, discharge of qualified principal residence indebtedness, penalties for bad checks, penalty for certain excessive claims or credit, penalty for understatement of taxpayer's liability by a tax preparer, water's edge elections, frivolous tax submissions, exclusion of gain from sale of principal residence by certain employees of the intelligence community, sale of property by judicial officers, excise tax on UBTI of charitable remainder trusts, certain listed and reportable transactions provisions, the taxation of certain settlement funds, the active business requirement, loans to qualified continuing care facilities, exception from suspension rules, and specified federal acts. This bill would also increase the age of ~~minor~~ children whose unearned income is taxed as if a parent's income, would increase the penalty for willful failure to file specified returns, and would revise, in modified conformity with the federal income tax laws, various provisions applicable to tax-exempt organizations.~~

This bill would also specify various dates on which specified provisions apply, make findings and declarations that certain provisions are declaratory of existing law, specify the intent and operation in the application of provisions conforming to various federal acts, and repeal obsolete provisions.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 17020.6 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 17020.6. For purposes of this part:
- 4 (a) Section 7702 of the Internal Revenue Code, relating to life
- 5 insurance contracts, shall apply, except as otherwise provided.
- 6 (b) Section 7702A of the Internal Revenue Code, relating to
- 7 modified endowment contracts, shall apply, except as otherwise
- 8 provided.

1 (c) (1) Section 7702B of the Internal Revenue Code, relating  
2 to treatment of qualified long-term care insurance, shall apply,  
3 except as otherwise provided.

4 (2) The amendments made by Section 844 of the Pension  
5 Protection Act of 2006 (Public Law 109-280) to Section 7702B  
6 of the Internal Revenue Code shall not apply.

7 SEC. 2. Section 17020.15 is added to the Revenue and Taxation  
8 Code, to read:

9 17020.15. (a) Section 7701(o) of the Internal Revenue Code,  
10 relating to convention or association of churches, shall apply,  
11 except as otherwise provided.

12 (b) The phrase "this part" shall be substituted for "this title" in  
13 Section 7701(o) of the Internal Revenue Code.

14 ~~SEC. 3. Section 17024.5 of the Revenue and Taxation Code~~  
15 ~~is amended to read:~~

16 ~~17024.5. (a) (1) Unless otherwise specifically provided, the~~  
17 ~~terms "Internal Revenue Code," "Internal Revenue Code of 1954,"~~  
18 ~~or "Internal Revenue Code of 1986," for purposes of this part,~~  
19 ~~mean Title 26 of the United States Code, including all amendments~~  
20 ~~thereto as enacted on the specified date for the applicable taxable~~  
21 ~~year as follows:~~

<del>Taxable Year</del>	<del>Specified Date of Internal Revenue Code Sections</del>
<del>(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983.....</del>	<del>January 15, 1983</del>
<del>(B) For taxable years beginning on or after January 1, 1984, and on or before December 31, 1984.....</del>	<del>January 1, 1984</del>
<del>(C) For taxable years beginning on or after January 1, 1985, and on or before December 31, 1985.....</del>	<del>January 1, 1985</del>
<del>(D) For taxable years beginning on or after January 1, 1986, and on or before December 31, 1986.....</del>	<del>January 1, 1986</del>
<del>(E) For taxable years beginning on or after January 1, 1987, and on or before December 31, 1988.....</del>	<del>January 1, 1987</del>

- 1 (F) For taxable years beginning on or after
- 2 January 1, 1989, and on or before December
- 3 31, 1989..... January 1, 1989
- 4 (G) For taxable years beginning on or after
- 5 January 1, 1990, and on or before December
- 6 31, 1990..... January 1, 1990
- 7 (H) For taxable years beginning on or after
- 8 January 1, 1991, and on or before December
- 9 31, 1991..... January 1, 1991
- 10 (I) For taxable years beginning on or after
- 11 January 1, 1992, and on or before December
- 12 31, 1992..... January 1, 1992
- 13 (J) For taxable years beginning on or after
- 14 January 1, 1993, and on or before December
- 15 31, 1996..... January 1, 1993
- 16 (K) For taxable years beginning on or after
- 17 January 1, 1997, and on or before December
- 18 31, 1997..... January 1, 1997
- 19 (L) For taxable years beginning on or after
- 20 January 1, 1998, and on or before December
- 21 31, 2001..... January 1, 1998
- 22 (M) For taxable years beginning on or after
- 23 January 1, 2002, and on or before December
- 24 31, 2004..... January 1, 2001
- 25 (N) For taxable years beginning on or after
- 26 January 1, 2005, and on or before December
- 27 31, 2006..... January 1, 2005
- 28 (O) For taxable years beginning on or after
- 29 January 1, 2007..... January 1, 2007
- 30

31 ~~(2) (A) Unless otherwise specifically provided, for federal laws~~  
 32 ~~enacted on or after January 1, 1987, and on or before the specified~~  
 33 ~~date for the taxable year, uncodified provisions that relate to~~  
 34 ~~provisions of the Internal Revenue Code that are incorporated for~~  
 35 ~~purposes of this part shall be applicable to the same taxable years~~  
 36 ~~as the incorporated provisions.~~

37 ~~(B) In the case where Section 901 of the Economic Growth and~~  
 38 ~~Tax Relief Act of 2001 (Public Law 107-16) applies to any~~  
 39 ~~provision of the Internal Revenue Code that is incorporated for~~  
 40 ~~purposes of this part, Section 901 of the Economic Growth and~~

1 Tax Relief Act of 2001 shall apply for purposes of this part in the  
2 same manner and to the same taxable years as it applies for federal  
3 income tax purposes.

4 ~~(3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle~~  
5 ~~H (Repeal of Expired or Obsolete Provisions) of the Revenue~~  
6 ~~Reconciliation Act of 1990 (Public Law 101-508) modified~~  
7 ~~numerous provisions of the Internal Revenue Code and provisions~~  
8 ~~of prior federal acts, some of which are incorporated by reference~~  
9 ~~into this part. Unless otherwise provided, the provisions described~~  
10 ~~in the preceding sentence, to the extent that they modify provisions~~  
11 ~~that are incorporated into this part, are declaratory of existing law~~  
12 ~~and shall be applied in the same manner and for the same periods~~  
13 ~~as specified in the Revenue Reconciliation Act of 1990.~~

14 ~~(b) Unless otherwise specifically provided, when applying any~~  
15 ~~provision of the Internal Revenue Code for purposes of this part,~~  
16 ~~a reference to any of the following is not applicable for purposes~~  
17 ~~of this part:~~

18 ~~(1) Except as provided in Chapter 4.5 (commencing with Section~~  
19 ~~23800) of Part 11 of Division 2, an electing small business~~  
20 ~~corporation, as defined in Section 1361(b) of the Internal Revenue~~  
21 ~~Code.~~

22 ~~(2) Domestic international sales corporations (DISC), as defined~~  
23 ~~in Section 992(a) of the Internal Revenue Code.~~

24 ~~(3) A personal holding company, as defined in Section 542 of~~  
25 ~~the Internal Revenue Code.~~

26 ~~(4) A foreign personal holding company, as defined in Section~~  
27 ~~552 of the Internal Revenue Code.~~

28 ~~(5) A foreign investment company, as defined in Section 1246(b)~~  
29 ~~of the Internal Revenue Code.~~

30 ~~(6) A foreign trust, as defined in Section 679 of the Internal~~  
31 ~~Revenue Code.~~

32 ~~(7) Foreign income taxes and foreign income tax credits.~~

33 ~~(8) Section 911 of the Internal Revenue Code, relating to United~~  
34 ~~States citizens living abroad.~~

35 ~~(9) A foreign corporation, except that Section 367 of the Internal~~  
36 ~~Revenue Code shall be applicable.~~

37 ~~(10) Federal tax credits and carryovers of federal tax credits.~~

38 ~~(11) Nonresident aliens.~~

39 ~~(12) Deduction for personal exemptions, as provided in Section~~  
40 ~~151 of the Internal Revenue Code.~~

1 ~~(13) The tax on generation-skipping transfers imposed by~~  
2 ~~Section 2601 of the Internal Revenue Code.~~

3 ~~(14) The tax, relating to estates, imposed by Section 2001 or~~  
4 ~~2101 of the Internal Revenue Code.~~

5 ~~(e) (1) The provisions contained in Sections 41 to 44, inclusive,~~  
6 ~~and Section 172 of the Tax Reform Act of 1984 (Public Law~~  
7 ~~98-369), relating to treatment of debt instruments, is not applicable~~  
8 ~~for taxable years beginning before January 1, 1987.~~

9 ~~(2) The provisions contained in Public Law 99-121, relating to~~  
10 ~~the treatment of debt instruments, is not applicable for taxable~~  
11 ~~years beginning before January 1, 1987.~~

12 ~~(3) For each taxable year beginning on or after January 1, 1987,~~  
13 ~~the provisions referred to by paragraphs (1) and (2) shall be~~  
14 ~~applicable for purposes of this part in the same manner and with~~  
15 ~~respect to the same obligations as the federal provisions, except~~  
16 ~~as otherwise provided in this part.~~

17 ~~(d) When applying the Internal Revenue Code for purposes of~~  
18 ~~this part, regulations promulgated in final form or issued as~~  
19 ~~temporary regulations by “the secretary” shall be applicable as~~  
20 ~~regulations under this part to the extent that they do not conflict~~  
21 ~~with this part or with regulations issued by the Franchise Tax~~  
22 ~~Board.~~

23 ~~(e) Whenever this part allows a taxpayer to make an election,~~  
24 ~~the following rules shall apply:~~

25 ~~(1) A proper election filed with the Internal Revenue Service~~  
26 ~~in accordance with the Internal Revenue Code or regulations issued~~  
27 ~~by “the secretary” shall be deemed to be a proper election for~~  
28 ~~purposes of this part, unless otherwise provided in this part or in~~  
29 ~~regulations issued by the Franchise Tax Board.~~

30 ~~(2) A copy of that election shall be furnished to the Franchise~~  
31 ~~Tax Board upon request.~~

32 ~~(3) (A) Except as provided in subparagraph (B), in order to~~  
33 ~~obtain treatment other than that elected for federal purposes, a~~  
34 ~~separate election shall be filed at the time and in the manner~~  
35 ~~required by the Franchise Tax Board.~~

36 ~~(B) (i) If a taxpayer makes a proper election for federal income~~  
37 ~~tax purposes prior to the time that taxpayer becomes subject to the~~  
38 ~~tax imposed under this part or Part 11 (commencing with Section~~  
39 ~~23001), that taxpayer is deemed to have made the same election~~  
40 ~~for purposes of the tax imposed by this part, Part 10.2 (commencing~~

1 with Section 18401), and Part 11 (commencing with Section  
2 23001), as applicable, and that taxpayer may not make a separate  
3 election for California tax purposes unless that separate election  
4 is expressly authorized by this part, Part 10.2 (commencing with  
5 Section 18401), or Part 11 (commencing with Section 23001), or  
6 by regulations issued by the Franchise Tax Board.

7 (ii) If a taxpayer has not made a proper election for federal  
8 income tax purposes prior to the time that taxpayer becomes subject  
9 to tax under this part or Part 11 (commencing with Section 23001);  
10 that taxpayer may not make a separate California election for  
11 purposes of this part, Part 10.2 (commencing with Section 18401),  
12 or Part 11 (commencing with Section 23001), unless that separate  
13 election is expressly authorized by this part, Part 10.2 (commencing  
14 with Section 18401), or Part 11 (commencing with Section 23001),  
15 or by regulations issued by the Franchise Tax Board.

16 (iii) This subparagraph applies only to the extent that the  
17 provisions of the Internal Revenue Code or the regulation issued  
18 by “the secretary” authorizing an election for federal income tax  
19 purposes apply for purposes of this part, Part 10.2 (commencing  
20 with Section 18401) or Part 11 (commencing with Section 23001).

21 (f) Whenever this part allows or requires a taxpayer to file an  
22 application or seek consent, the rules set forth in subdivision (e)  
23 shall be applicable with respect to that application or consent.

24 (g) When applying the Internal Revenue Code for purposes of  
25 determining the statute of limitations under this part, any reference  
26 to a period of three years shall be modified to read four years for  
27 purposes of this part.

28 (h) When applying, for purposes of this part, any section of the  
29 Internal Revenue Code or any applicable regulation thereunder,  
30 all of the following shall apply:

31 (1) References to “adjusted gross income” shall mean the  
32 amount computed in accordance with Section 17072, except as  
33 provided in paragraph (2).

34 (2) (A) Except as provided in subparagraph (B), references to  
35 “adjusted gross income” for purposes of computing limitations  
36 based upon adjusted gross income, shall mean the amount required  
37 to be shown as adjusted gross income on the federal tax return for  
38 the same taxable year.

39 (B) In the case of registered domestic partners filing a joint  
40 return under Section 18521, adjusted gross income, for the purposes

1 of computing limitations based upon adjusted gross income, shall  
2 mean the total of the amount required to be shown as adjusted  
3 gross income on the federal tax return for the same taxable year  
4 of each registered domestic partner.

5 (3) Any reference to “subtitle” or “chapter” shall mean this part.

6 (4) The provisions of Section 7806 of the Internal Revenue  
7 Code, relating to construction of title, shall apply.

8 (5) Any provision of the Internal Revenue Code that becomes  
9 operative on or after the specified date for that taxable year shall  
10 become operative on the same date for purposes of this part.

11 (6) Any provision of the Internal Revenue Code that becomes  
12 inoperative on or after the specified date for that taxable year shall  
13 become inoperative on the same date for purposes of this part.

14 (7) Due account shall be made for differences in federal and  
15 state terminology, effective dates, substitution of “Franchise Tax  
16 Board” for “secretary” when appropriate, and other obvious  
17 differences.

18 (8) Except as otherwise provided, any reference to Section 501  
19 of the Internal Revenue Code shall be interpreted to also refer to  
20 Section 23701.

21 (i) Any reference to a specific provision of the Internal Revenue  
22 Code shall include modifications of that provision, if any, in this  
23 part.

24 *SEC. 3. Section 17024.5 of the Revenue and Taxation Code is*  
25 *amended to read:*

26 17024.5. (a) (1) Unless otherwise specifically provided, the  
27 terms “Internal Revenue Code,” “Internal Revenue Code of 1954,”  
28 or “Internal Revenue Code of 1986,” for purposes of this part,  
29 mean Title 26 of the United States Code, including all amendments  
30 thereto as enacted on the specified date for the applicable taxable  
31 year as follows:

Taxable Year	Specified Date of Internal Revenue Code Sections
(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983.....	January 15, 1983
(B) For taxable years beginning on or after	

- 1 January 1, 1984, and on or before December
- 2 31, 1984..... January 1, 1984
- 3 (C) For taxable years beginning on or after
- 4 January 1, 1985, and on or before December
- 5 31, 1985..... January 1, 1985
- 6 (D) For taxable years beginning on or after
- 7 January 1, 1986, and on or before December
- 8 31, 1986..... January 1, 1986
- 9 (E) For taxable years beginning on or after
- 10 January 1, 1987, and on or before December
- 11 31, 1988..... January 1, 1987
- 12 (F) For taxable years beginning on or after
- 13 January 1, 1989, and on or before December
- 14 31, 1989..... January 1, 1989
- 15 (G) For taxable years beginning on or after
- 16 January 1, 1990, and on or before December
- 17 31, 1990..... January 1, 1990
- 18 (H) For taxable years beginning on or after
- 19 January 1, 1991, and on or before December
- 20 31, 1991..... January 1, 1991
- 21 (I) For taxable years beginning on or after
- 22 January 1, 1992, and on or before December
- 23 31, 1992..... January 1, 1992
- 24 (J) For taxable years beginning on or after
- 25 January 1, 1993, and on or before December
- 26 31, 1996..... January 1, 1993
- 27 (K) For taxable years beginning on or after
- 28 January 1, 1997, and on or before December
- 29 31, 1997..... January 1, 1997
- 30 (L) For taxable years beginning on or after
- 31 January 1, 1998, and on or before December
- 32 31, 2001..... January 1, 1998
- 33 (M) For taxable years beginning on or after
- 34 January 1, 2002, and on or before December
- 35 31, 2004..... January 1, 2001
- 36 (N) For taxable years beginning on or after
- 37 January 1, 2005, *and on or before December*
- 38 *31, 2007*..... January 1, 2005
- 39 (O) *For taxable years beginning on or after*
- 40 *January 1, 2008*..... *January 1, 2008*

1 (2) (A) Unless otherwise specifically provided, for federal laws  
2 enacted on or after January 1, 1987, and on or before the specified  
3 date for the taxable year, uncodified provisions that relate to  
4 provisions of the Internal Revenue Code that are incorporated for  
5 purposes of this part shall be applicable to the same taxable years  
6 as the incorporated provisions.

7 (B) In the case where Section 901 of the Economic Growth and  
8 Tax Relief Act of 2001 (Public Law 107-16) applies to any  
9 provision of the Internal Revenue Code that is incorporated for  
10 purposes of this part, Section 901 of the Economic Growth and  
11 Tax Relief Act of 2001 shall apply for purposes of this part in the  
12 same manner and to the same taxable years as it applies for federal  
13 income tax purposes.

14 (3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle  
15 H (Repeal of Expired or Obsolete Provisions) of the Revenue  
16 Reconciliation Act of 1990 (Public Law 101-508) modified  
17 numerous provisions of the Internal Revenue Code and provisions  
18 of prior federal acts, some of which are incorporated by reference  
19 into this part. Unless otherwise provided, the provisions described  
20 in the preceding sentence, to the extent that they modify provisions  
21 that are incorporated into this part, are declaratory of existing law  
22 and shall be applied in the same manner and for the same periods  
23 as specified in the Revenue Reconciliation Act of 1990.

24 (b) Unless otherwise specifically provided, when applying any  
25 provision of the Internal Revenue Code for purposes of this part,  
26 a reference to any of the following is not applicable for purposes  
27 of this part:

28 (1) Except as provided in Chapter 4.5 (commencing with Section  
29 23800) of Part 11 of Division 2, an electing small business  
30 corporation, as defined in Section 1361(b) of the Internal Revenue  
31 Code.

32 (2) Domestic international sales corporations (DISC), as defined  
33 in Section 992(a) of the Internal Revenue Code.

34 (3) A personal holding company, as defined in Section 542 of  
35 the Internal Revenue Code.

36 (4) A foreign personal holding company, as defined in Section  
37 552 of the Internal Revenue Code.

38 (5) A foreign investment company, as defined in Section 1246(b)  
39 of the Internal Revenue Code.

- 1 (6) A foreign trust, as defined in Section 679 of the Internal  
2 Revenue Code.
- 3 (7) Foreign income taxes and foreign income tax credits.
- 4 (8) Section 911 of the Internal Revenue Code, relating to United  
5 States citizens living abroad.
- 6 (9) A foreign corporation, except that Section 367 of the Internal  
7 Revenue Code shall be applicable.
- 8 (10) Federal tax credits and carryovers of federal tax credits.
- 9 (11) Nonresident aliens.
- 10 (12) Deduction for personal exemptions, as provided in Section  
11 151 of the Internal Revenue Code.
- 12 (13) The tax on generation-skipping transfers imposed by  
13 Section 2601 of the Internal Revenue Code.
- 14 (14) The tax, relating to estates, imposed by Section 2001 or  
15 2101 of the Internal Revenue Code.
- 16 (c) (1) The provisions contained in Sections 41 to 44, inclusive,  
17 and Section 172 of the Tax Reform Act of 1984 (Public Law  
18 98-369), relating to treatment of debt instruments, is not applicable  
19 for taxable years beginning before January 1, 1987.
- 20 (2) The provisions contained in Public Law 99-121, relating to  
21 the treatment of debt instruments, is not applicable for taxable  
22 years beginning before January 1, 1987.
- 23 (3) For each taxable year beginning on or after January 1, 1987,  
24 the provisions referred to by paragraphs (1) and (2) shall be  
25 applicable for purposes of this part in the same manner and with  
26 respect to the same obligations as the federal provisions, except  
27 as otherwise provided in this part.
- 28 (d) When applying the Internal Revenue Code for purposes of  
29 this part, regulations promulgated in final form or issued as  
30 temporary regulations by “the secretary” shall be applicable as  
31 regulations under this part to the extent that they do not conflict  
32 with this part or with regulations issued by the Franchise Tax  
33 Board.
- 34 (e) Whenever this part allows a taxpayer to make an election,  
35 the following rules shall apply:
- 36 (1) A proper election filed with the Internal Revenue Service  
37 in accordance with the Internal Revenue Code or regulations issued  
38 by “the secretary” shall be deemed to be a proper election for  
39 purposes of this part, unless otherwise provided in this part or in  
40 regulations issued by the Franchise Tax Board.

1 (2) A copy of that election shall be furnished to the Franchise  
2 Tax Board upon request.

3 (3) (A) Except as provided in subparagraph (B), in order to  
4 obtain treatment other than that elected for federal purposes, a  
5 separate election shall be filed at the time and in the manner  
6 required by the Franchise Tax Board.

7 (B) (i) If a taxpayer makes a proper election for federal income  
8 tax purposes prior to the time that taxpayer becomes subject to the  
9 tax imposed under this part or Part 11 (commencing with Section  
10 23001), that taxpayer is deemed to have made the same election  
11 for purposes of the tax imposed by this part, Part 10.2 (commencing  
12 with Section 18401), and Part 11 (commencing with Section  
13 23001), as applicable, and that taxpayer may not make a separate  
14 election for California tax purposes unless that separate election  
15 is expressly authorized by this part, Part 10.2 (commencing with  
16 Section 18401), or Part 11 (commencing with Section 23001), or  
17 by regulations issued by the Franchise Tax Board.

18 (ii) If a taxpayer has not made a proper election for federal  
19 income tax purposes prior to the time that taxpayer becomes subject  
20 to tax under this part or Part 11 (commencing with Section 23001),  
21 that taxpayer may not make a separate California election for  
22 purposes of this part, Part 10.2 (commencing with Section 18401),  
23 or Part 11 (commencing with Section 23001), unless that separate  
24 election is expressly authorized by this part, Part 10.2 (commencing  
25 with Section 18401), or Part 11 (commencing with Section 23001),  
26 or by regulations issued by the Franchise Tax Board.

27 (iii) This subparagraph applies only to the extent that the  
28 provisions of the Internal Revenue Code or the regulation issued  
29 by “the secretary” authorizing an election for federal income tax  
30 purposes apply for purposes of this part, Part 10.2 (commencing  
31 with Section 18401) or Part 11 (commencing with Section 23001).

32 (f) Whenever this part allows or requires a taxpayer to file an  
33 application or seek consent, the rules set forth in subdivision (e)  
34 shall be applicable with respect to that application or consent.

35 (g) When applying the Internal Revenue Code for purposes of  
36 determining the statute of limitations under this part, any reference  
37 to a period of three years shall be modified to read four years for  
38 purposes of this part.

1 (h) When applying, for purposes of this part, any section of the  
2 Internal Revenue Code or any applicable regulation thereunder,  
3 all of the following shall apply:

4 (1) References to “adjusted gross income” shall mean the  
5 amount computed in accordance with Section 17072, except as  
6 provided in paragraph (2).

7 (2) (A) Except as provided in subparagraph (B), references to  
8 “adjusted gross income” for purposes of computing limitations  
9 based upon adjusted gross income, shall mean the amount required  
10 to be shown as adjusted gross income on the federal tax return for  
11 the same taxable year.

12 (B) In the case of registered domestic partners and former  
13 registered domestic partners, adjusted gross income, for the  
14 purposes of computing limitations based upon adjusted gross  
15 income, shall mean the adjusted gross income on a federal tax  
16 return computed as if the registered domestic partner or former  
17 registered domestic partner was treated as a spouse or former  
18 spouse, respectively, for federal income tax purposes, and used  
19 the same filing status that was used on the state tax return for the  
20 same taxable year.

21 (3) Any reference to “subtitle” or “chapter” shall mean this part.

22 (4) The provisions of Section 7806 of the Internal Revenue  
23 Code, relating to construction of title, shall apply.

24 (5) Any provision of the Internal Revenue Code that becomes  
25 operative on or after the specified date for that taxable year shall  
26 become operative on the same date for purposes of this part.

27 (6) Any provision of the Internal Revenue Code that becomes  
28 inoperative on or after the specified date for that taxable year shall  
29 become inoperative on the same date for purposes of this part.

30 (7) Due account shall be made for differences in federal and  
31 state terminology, effective dates, substitution of “Franchise Tax  
32 Board” for “secretary” when appropriate, and other obvious  
33 differences.

34 (8) *Except as otherwise provided, any reference to Section 501*  
35 *of the Internal Revenue Code shall be interpreted to also refer to*  
36 *Section 23701.*

37 (i) Any reference to a specific provision of the Internal Revenue  
38 Code shall include modifications of that provision, if any, in this  
39 part.

1 SEC. 3.4. Section 17041 of the Revenue and Taxation Code is  
2 amended to read:

3 17041. (a) There shall be imposed for each taxable year upon  
4 the entire taxable income of every resident of this state who is not  
5 a part-year resident, except the head of a household as defined in  
6 Section 17042, taxes in the following amounts and at the following  
7 rates upon the amount of taxable income computed for the taxable  
8 year as if the resident were a resident of this state for the entire  
9 taxable year and for all prior taxable years for any carryover items,  
10 deferred income, suspended losses, or suspended deductions:

11 If the taxable income is:	12 The tax is:
13 Not over \$3,650.....	1% of the taxable income
14 Over \$3,650 but not	
15 over \$8,650.....	\$36.50 plus 2% of the excess 16 over \$3,650
17 Over \$8,650 but not	
18 over \$13,650.....	\$136.50 plus 4% of the excess 19 over \$8,650
20 Over \$13,650 but not	
21 over \$18,950.....	\$336.50 plus 6% of the excess 22 over \$13,650
23 Over \$18,950 but not	
24 over \$23,950.....	\$654.50 plus 8% of the excess 25 over \$18,950
26 Over \$23,950.....	\$1,054.50 plus 9.3% of the excess 27 over \$23,950

28  
29 (b) (1) There shall be imposed for each taxable year upon the  
30 taxable income of every nonresident or part-year resident, except  
31 the head of a household as defined in Section 17042, a tax as  
32 calculated in paragraph (2).

33 (2) The tax imposed under paragraph (1) shall be calculated by  
34 multiplying the “taxable income of a nonresident or part-year  
35 resident,” as defined in subdivision (i), by a rate (expressed as a  
36 percentage) equal to the tax computed under subdivision (a) on  
37 the entire taxable income of the nonresident or part-year resident  
38 as if the nonresident or part-year resident were a resident of this  
39 state for the taxable year and as if the nonresident or part-year  
40 resident were a resident of this state for all prior taxable years for

1 any carryover items, deferred income, suspended losses, or  
2 suspended deductions, divided by the amount of that income.

3 (c) There shall be imposed for each taxable year upon the entire  
4 taxable income of every resident of this state who is not a part-year  
5 resident for that taxable year, when the resident is the head of a  
6 household, as defined in Section 17042, taxes in the following  
7 amounts and at the following rates upon the amount of taxable  
8 income computed for the taxable year as if the resident were a  
9 resident of the state for the entire taxable year and for all prior  
10 taxable years for carryover items, deferred income, suspended  
11 losses, or suspended deductions:

12 If the taxable income is:	The tax is:
13 Not over \$7,300.....	1% of the taxable income
14 Over \$7,300 but not	
15 over \$17,300.....	\$73 plus 2% of the excess
16	over \$7,300
17 Over \$17,300 but not	
18 over \$22,300.....	\$273 plus 4% of the excess
19	over \$17,300
20 Over \$22,300 but not	
21 over \$27,600.....	\$473 plus 6% of the excess
22	over \$22,300
23 Over \$27,600 but not	
24 over \$32,600.....	\$791 plus 8% of the excess
25	over \$27,600
26 Over \$32,600.....	\$1,191 plus 9.3% of the excess
27	over \$32,600
28	
29	

30 (d) (1) There shall be imposed for each taxable year upon the  
31 taxable income of every nonresident or part-year resident when  
32 the nonresident or part-year resident is the head of a household,  
33 as defined in Section 17042, a tax as calculated in paragraph (2).

34 (2) The tax imposed under paragraph (1) shall be calculated by  
35 multiplying the “taxable income of a nonresident or part-year  
36 resident,” as defined in subdivision (i), by a rate (expressed as a  
37 percentage) equal to the tax computed under subdivision (c) on  
38 the entire taxable income of the nonresident or part-year resident  
39 as if the nonresident or part-year resident were a resident of this  
40 state for the taxable year and as if the nonresident or part-year

1 resident were a resident of this state for all prior taxable years for  
2 any carryover items, deferred income, suspended losses, or  
3 suspended deductions, divided by the amount of that income.

4 (e) There shall be imposed for each taxable year upon the taxable  
5 income of every estate, trust, or common trust fund taxes equal to  
6 the amount computed under subdivision (a) for an individual  
7 having the same amount of taxable income.

8 (f) The tax imposed by this part is not a surtax.

9 (g) (1) Section 1(g) of the Internal Revenue Code, relating to  
10 certain unearned income of ~~minor~~ children taxed as if the parent's  
11 income, shall apply, except as otherwise provided.

12 (2) Section 1(g)(7)(B)(ii)(II) of the Internal Revenue Code,  
13 relating to income included on parent's return, is modified, for  
14 purposes of this part, by substituting "1 percent" for "15 percent."

15 (h) For each taxable year beginning on or after January 1, 1988,  
16 the Franchise Tax Board shall recompute the income tax brackets  
17 prescribed in subdivisions (a) and (c). That computation shall be  
18 made as follows:

19 (1) The California Department of Industrial Relations shall  
20 transmit annually to the Franchise Tax Board the percentage change  
21 in the California Consumer Price Index for all items from June of  
22 the prior calendar year to June of the current calendar year, no  
23 later than August 1 of the current calendar year.

24 (2) The Franchise Tax Board shall do both of the following:

25 (A) Compute an inflation adjustment factor by adding 100  
26 percent to the percentage change figure that is furnished pursuant  
27 to paragraph (1) and dividing the result by 100.

28 (B) Multiply the preceding taxable year income tax brackets by  
29 the inflation adjustment factor determined in subparagraph (A)  
30 and round off the resulting products to the nearest one dollar (\$1).

31 (i) (1) For purposes of this part, the term "taxable income of a  
32 nonresident or part-year resident" includes each of the following:

33 (A) For any part of the taxable year during which the taxpayer  
34 was a resident of this state (as defined by Section 17014), all items  
35 of gross income and all deductions, regardless of source.

36 (B) For any part of the taxable year during which the taxpayer  
37 was not a resident of this state, gross income and deductions  
38 derived from sources within this state, determined in accordance  
39 with Article 9 of Chapter 3 (commencing with Section 17301) and  
40 Chapter 11 (commencing with Section 17951).

1 (2) For purposes of computing “taxable income of a nonresident  
2 or part-year resident” under paragraph (1), the amount of any net  
3 operating loss sustained in any taxable year during any part of  
4 which the taxpayer was not a resident of this state shall be limited  
5 to the sum of the following:

6 (A) The amount of the loss attributable to the part of the taxable  
7 year in which the taxpayer was a resident.

8 (B) The amount of the loss which, during the part of the taxable  
9 year the taxpayer is not a resident, is attributable to California  
10 source income and deductions allowable in arriving at taxable  
11 income of a nonresident or part-year resident.

12 (3) For purposes of computing “taxable income of a nonresident  
13 or part-year resident” under paragraph (1), any carryover items,  
14 deferred income, suspended losses, or suspended deductions shall  
15 only be includable or allowable to the extent that the carryover  
16 item, deferred income, suspended loss, or suspended deduction  
17 was derived from sources within this state, calculated as if the  
18 nonresident or part-year resident, for the portion of the year he or  
19 she was a nonresident, had been a nonresident for all prior years.

20 SEC. 4. Section 17052.12 of the Revenue and Taxation Code  
21 is amended to read:

22 17052.12. For each taxable year beginning on or after January  
23 1, 1987, there shall be allowed as a credit against the “net tax” (as  
24 defined by Section 17039) for the taxable year an amount  
25 determined in accordance with Section 41 of the Internal Revenue  
26 Code, except as follows:

27 (a) For each taxable year beginning before January 1, 1997, the  
28 reference to “20 percent” in Section 41(a)(1) of the Internal  
29 Revenue Code is modified to read “8 percent.”

30 (b) (1) For each taxable year beginning on or after January 1,  
31 1997, and before January 1, 1999, the reference to “20 percent”  
32 in Section 41(a)(1) of the Internal Revenue Code is modified to  
33 read “11 percent.”

34 (2) For each taxable year beginning on or after January 1, 1999,  
35 and before January 1, 2000, the reference to “20 percent” in Section  
36 41(a)(1) of the Internal Revenue Code is modified to read “12  
37 percent.”

38 (3) For each taxable year beginning on or after January 1, 2000,  
39 the reference to “20 percent” in Section 41(a)(1) of the Internal  
40 Revenue Code is modified to read “15 percent.”

1 (c) Section 41(a)(2) of the Internal Revenue Code, relating to  
2 basic research payments, shall not apply.

3 (d) “Qualified research” shall include only research conducted  
4 in California.

5 (e) In the case where the credit allowed under this section  
6 exceeds the “net tax,” the excess may be carried over to reduce  
7 the “net tax” in the following year, and succeeding years if  
8 necessary, until the credit has been exhausted.

9 (f) (1) With respect to any expense paid or incurred after the  
10 operative date of Section 6378, Section 41(b)(1) of the Internal  
11 Revenue Code is modified to exclude from the definition of  
12 “qualified research expense” any amount paid or incurred for  
13 tangible personal property that is eligible for the exemption from  
14 sales or use tax provided by Section 6378.

15 (2) For each taxable year beginning on or after January 1, 1998,  
16 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the  
17 Internal Revenue Code, relating to contract research expenses, is  
18 modified to read “this part or Part 11 (commencing with Section  
19 23001).”

20 (g) (1) For each taxable year beginning on or after January 1,  
21 2000:

22 (A) The reference to “3 percent” in Section 41(c)(4)(A)(i) of  
23 the Internal Revenue Code is modified to read “one and forty-nine  
24 hundredths of one percent.”

25 (B) The reference to “4 percent” in Section 41(c)(4)(A)(ii) of  
26 the Internal Revenue Code is modified to read “one and  
27 ninety-eight hundredths of one percent.”

28 (C) The reference to “5 percent” in Section 41(c)(4)(A)(iii) of  
29 the Internal Revenue Code is modified to read “two and forty-eight  
30 hundredths of one percent.”

31 (2) Section 41(c)(4)(B) shall not apply and in lieu thereof an  
32 election under Section 41(c)(4)(A) of the Internal Revenue Code  
33 may be made for any taxable year of the taxpayer beginning on or  
34 after January 1, 1998. That election shall apply to the taxable year  
35 for which made and all succeeding taxable years unless revoked  
36 with the consent of the Franchise Tax Board.

37 (3) Section 41(c)(7) of the Internal Revenue Code, relating to  
38 gross receipts, is modified to take into account only those gross  
39 receipts from the sale of property held primarily for sale to  
40 customers in the ordinary course of the taxpayer’s trade or business

1 that is delivered or shipped to a purchaser within this state,  
2 regardless of f.o.b. point or any other condition of the sale.

3 (4) Section 41(c)(5) of the Internal Revenue Code, relating to  
4 the election of the alternative simplified credit, shall not apply.

5 (h) Section 41(h) of the Internal Revenue Code, relating to  
6 termination, shall not apply.

7 (i) Section 41(g) of the Internal Revenue Code, relating to  
8 special rule for passthrough of credit, is modified by each of the  
9 following:

10 (1) The last sentence shall not apply.

11 (2) If the amount determined under Section 41(a) of the Internal  
12 Revenue Code for any taxable year exceeds the limitation of  
13 Section 41(g) of the Internal Revenue Code, that amount may be  
14 carried over to other taxable years under the rules of subdivision  
15 (e); except that the limitation of Section 41(g) of the Internal  
16 Revenue Code shall be taken into account in each subsequent  
17 taxable year.

18 (j) (1) Section 41(a)(3) of the Internal Revenue Code, relating  
19 to payments to an energy research consortium, shall not apply.

20 (2) Section 41(b)(3)(D) of the Internal Revenue Code, relating  
21 to amounts paid to eligible small businesses, universities, and  
22 federal laboratories, shall not apply.

23 (3) Section 41(f)(6) of the Internal Revenue Code, relating to  
24 an energy research consortium, shall not apply.

25 SEC. 5. Section 17063 of the Revenue and Taxation Code is  
26 amended to read:

27 17063. (a) There shall be allowed as a credit against the net  
28 tax (as defined by Section 17039) for any taxable year an amount  
29 equal to the minimum tax credit for that taxable year.

30 (b) For purposes of subdivision (a), the minimum tax credit  
31 shall be determined in accordance with Section 53 of the Internal  
32 Revenue Code, except as otherwise provided in this part.

33 (c) For purposes of this chapter, the amount determined under  
34 Section 53(c)(1) of the Internal Revenue Code shall be the regular  
35 tax as defined by paragraph (2) of subdivision (b) of Section 17062,  
36 reduced by the sum of the credits allowable under this part, other  
37 than:

38 (1) The credits described in paragraph (7) of subdivision (a) of  
39 Section 17039.

1 (2) Any credit that reduces the tax below the tentative minimum  
2 tax, as defined by Section 17062.

3 (d) Section 53(d)(1)(B)(ii)(II) of the Internal Revenue Code,  
4 relating to credit not allowed for exclusion preferences, is modified  
5 to include subdivision (e) of Section 17062, as a specified item.

6 (e) Section 53(e) of the Internal Revenue Code, relating to the  
7 special rule for individuals with long-term unused credits, shall  
8 not apply.

9 SEC. 6. Section 17072 of the Revenue and Taxation Code is  
10 amended to read:

11 17072. (a) Section 62 of the Internal Revenue Code, relating  
12 to adjusted gross income defined, shall apply, except as otherwise  
13 provided.

14 (b) Section 62(a)(2)(D) of the Internal Revenue Code, relating  
15 to certain expenses of elementary and secondary school teachers,  
16 shall not apply.

17 (c) Section 62(a)(21) of the Internal Revenue Code, relating to  
18 attorneys' fees relating to awards to whistleblowers, shall not  
19 apply.

20 SEC. 7. Section 17085 of the Revenue and Taxation Code is  
21 amended to read:

22 17085. Section 72 of the Internal Revenue Code, relating to  
23 annuities and certain proceeds of life insurance contracts, is  
24 modified as follows:

25 (a) The amendments and transitional rules made by Public Law  
26 99-514 shall be applicable to this part for the same transactions  
27 and the same years as they are applicable for federal purposes,  
28 except that the repeal of Section 72(d) of the Internal Revenue  
29 Code, relating to repeal of special rule for employees' annuities,  
30 shall apply only to the following:

31 (1) Any individual whose annuity starting date is after December  
32 31, 1986.

33 (2) At the election of the taxpayer, any individual whose annuity  
34 starting date is after July 1, 1986, and before January 1, 1987.

35 (b) The amount of a distribution from an individual retirement  
36 account or annuity or employee trust or employee annuity that is  
37 includable in gross income for federal purposes shall be reduced  
38 for purposes of this part by the lesser of either of the following:

39 (1) An amount equal to the amount includable in federal gross  
40 income for the taxable year.

1 (2) An amount equal to the basis in the account or annuity  
2 allowed by Section 17507 (relating to individual retirement  
3 accounts and simplified employee pensions), the increased basis  
4 allowed by Sections 17504 and 17506 (relating to plans of  
5 self-employed individuals), the increased basis allowed by Section  
6 17501, or the increased basis allowed by Section 17551 that is  
7 remaining after adjustment for reductions in gross income under  
8 this provision in prior taxable years.

9 (c) (1) Except as provided in paragraph (2), the amount of the  
10 penalty imposed under this part shall be computed in accordance  
11 with Sections 72(m), (q), (t), and (v) of the Internal Revenue Code  
12 using a rate of 2½ percent, in lieu of the rate provided in those  
13 sections.

14 (2) In the case where Section 72(t)(6) of the Internal Revenue  
15 Code, relating to special rules for simple retirement accounts,  
16 applies, the rate in paragraph (1) shall be 6 percent in lieu of the  
17 2½ percent rate specified therein.

18 (d) Section 72(f)(2) of the Internal Revenue Code, relating to  
19 special rules for computing employees' contributions, shall be  
20 applicable without applying the exceptions which immediately  
21 follow that paragraph.

22 (e) The amendments made by Section 844 of the Pension  
23 Protection Act of 2006 (Public Law 109-208) to Section 72(e) of  
24 the Internal Revenue Code, shall not apply.

25 SEC. 8. Section 17132.5 of the Revenue and Taxation Code  
26 is amended to read:

27 17132.5. Section 101 of the Internal Revenue Code, relating  
28 to certain death benefits, is modified as follows:

29 (a) Section 101(h) of the Internal Revenue Code, relating to  
30 survivor benefits attributable to service by a public safety officer  
31 who is killed in the line of duty, is modified to apply to amounts  
32 received in taxable years beginning after December 31, 1996, with  
33 respect to individuals dying after December 31, 1996.

34 (b) (1) Section 101 of the Internal Revenue Code, as modified  
35 by subdivision (a) is modified to additionally provide that Section  
36 101(h) of the Internal Revenue Code shall not apply to survivor  
37 benefits attributable to service by a public safety officer who is  
38 killed in the line of duty with respect to deaths occurring before  
39 December 31, 1996, that would otherwise be eligible for exclusion

1 pursuant to Section 101(h) of the Internal Revenue Code, as  
2 modified by Public Law 107-15.

3 (2) The amendments made to this section by Chapter 691 of the  
4 Statutes of 2005 shall apply to amounts paid after December 31,  
5 2001, with respect to deaths occurring on or before December 31,  
6 1996.

7 (c) (1) Section 101 of the Internal Revenue Code, as modified  
8 by subdivision (b), is modified to additionally provide that Section  
9 101(i) of the Internal Revenue Code shall apply to any astronaut  
10 whose death occurs in the line of duty.

11 (2) The amendments made to this section by Chapter 552 of the  
12 Statutes of 2004 shall apply to amounts received in taxable years  
13 beginning after December 31, 2002, with respect to deaths  
14 occurring after that date.

15 (d) Section 101(j) of the Internal Revenue Code, relating to the  
16 treatment of certain employer-owned life insurance contracts, shall  
17 apply in accordance with the provisions of Section 863(d) of the  
18 Pension Protection Act of 2006 (Public Law 109-280), relating to  
19 effective dates, except that the phrase “January 1, ~~2007~~ 2008”  
20 shall be substituted for the ~~date~~ “the date of the enactment of this  
21 Act” contained therein.

22 *SEC. 8.4. Section 17132.8 is added to the Revenue and Taxation*  
23 *Code, to read:*

24 *17132.8. For purposes of this part, Part 10.2 (commencing*  
25 *with Section 18401), and Part 11 (commencing with Section*  
26 *23001), gross income shall not include any amount received from*  
27 *the Virginia Polytechnic Institute and State University, out of*  
28 *amounts transferred from the Hokie Spirit Memorial Fund*  
29 *established by the Virginia Tech Foundation, an organization*  
30 *organized and operated as described in Section 501 (c)(3) of the*  
31 *Internal Revenue Code of 1986, if that amount is paid on account*  
32 *of the tragic event on April 16, 2007, at that university.*

33 *SEC. 8.6. Section 17144.5 is added to the Revenue and Taxation*  
34 *Code, to read:*

35 *17144.5. Section 108 (a)(1)(E) of the Internal Revenue Code,*  
36 *relating to discharge of qualified principal residence indebtedness,*  
37 *shall not apply.*

38 *SEC. 9. Section 17152 of the Revenue and Taxation Code is*  
39 *amended to read:*

1 17152. Section 121 of the Internal Revenue Code, relating to  
2 exclusion of gain from sale of principal residence, is modified as  
3 follows:

4 (a) The two-year period in Section 121(a) of the Internal  
5 Revenue Code shall be reduced by the period of the taxpayer's  
6 service, not to exceed 18 months, in the Peace Corps during the  
7 five-year period ending on the date of the sale or exchange.

8 (b) If the taxpayer is prohibited from filing a joint return  
9 pursuant to Section 18521, Section 121(b)(2)(A) of the Internal  
10 Revenue Code shall nevertheless be treated as being satisfied if  
11 the taxpayer files a joint return for federal income tax purposes  
12 for the same taxable year. However, in no instance shall the total  
13 amount excludable from gross income under Section 121(a) of the  
14 Internal Revenue Code with respect to any sale or exchange exceed  
15 the maximum amount allowed by Section 121(b) of the Internal  
16 Revenue Code.

17 (c) (1) If a taxpayer has, at any time, made an election for  
18 federal purposes under Section 121(f) of the Internal Revenue  
19 Code not to have Section 121 of the Internal Revenue Code apply  
20 to a sale or exchange, Section 121 of the Internal Revenue Code  
21 shall not apply to that sale or exchange for state purposes, a  
22 separate election for state purposes shall not be allowed under  
23 paragraph (3) of subdivision (e) of Section 17024.5, the federal  
24 election shall be binding for purposes of this part, and that election  
25 shall be treated as an election to include in gross income for  
26 purposes of this part all the gain from the sale or exchange of that  
27 property, including that amount which, but for that election, would  
28 have been excluded from income under Section 121(a) of the  
29 Internal Revenue Code for state purposes.

30 (2) If a taxpayer fails to make an election for federal purposes  
31 under Section 121(f) of the Internal Revenue Code to not have  
32 Section 121 of the Internal Revenue Code apply to a sale or  
33 exchange, no election under Section 121(f) of the Internal Revenue  
34 Code shall be allowed for state purposes, Section 121 of the  
35 Internal Revenue Code shall apply to that sale or exchange for  
36 state purposes, and a separate election for state purposes shall not  
37 be allowed under paragraph (3) of subdivision (e) of Section  
38 17024.5.

39 (d) (1) If a taxpayer has, at any time, made an election for  
40 federal purposes under Section 312(d)(2) of the Taxpayer Relief

1 Act of 1997 (Public Law 105-34), relating to sales before date of  
2 enactment, or Section 312(d)(4) of that act, relating to binding  
3 contracts, to not have the amendments made by Section 312 of the  
4 Taxpayer Relief Act of 1997 (Public Law 105-34) apply to a sale  
5 or exchange, the amendments made by the act adding this  
6 subdivision shall not apply to that sale or exchange, Sections 1, 4,  
7 and 6 of Chapter 610 of the Statutes of 1997 shall not apply to that  
8 sale or exchange, a separate election for state purposes shall not  
9 be allowed under paragraph (3) of subdivision (e) of Section  
10 17024.5, and the federal election shall be binding for purposes of  
11 this part.

12 (2) If a taxpayer fails to make an election for federal purposes  
13 under Section 312(d)(2) of the Taxpayer Relief Act of 1997 (Public  
14 Law 105-34), relating to sales before date of enactment, or Section  
15 312(d)(4) of that act, relating to binding contracts, to not have the  
16 amendments made by Section 312 of the Taxpayer Relief Act of  
17 1997 (Public Law 105-34) apply to a sale or exchange, an election  
18 under Section 312(d)(2) of the Taxpayer Relief Act of 1997 (Public  
19 Law 105-34), relating to sales before date of enactment, or Section  
20 312(d)(4) of that act, relating to binding contracts, shall not be  
21 allowed for state purposes, the amendments made by the act adding  
22 this subdivision shall apply to that sale or exchange, Sections 1,  
23 4, and 6 of Chapter 610 of the Statutes of 1997 shall apply to that  
24 sale or exchange, and a separate election for state purposes shall  
25 not be allowed under paragraph (3) of subdivision (e) of Section  
26 17024.5.

27 (e) (1) If a taxpayer has, at any time, made or revoked an  
28 election for federal purposes under Section 121(d)(9) of the Internal  
29 Revenue Code to suspend the running of the five-year period  
30 described in Sections 121(a), 121(c)(1)(B), and 121(d)(7) of the  
31 Internal Revenue Code, that election or revocation of election to  
32 suspend the five-year period under Section 121(d)(9) of the Internal  
33 Revenue Code shall be applicable for state purposes, a separate  
34 election or revocation of election for purposes of Section 121(d)(9)  
35 of the Internal Revenue Code may not be allowed under paragraph  
36 (3) of subdivision (e) of Section 17024.5, and the federal election  
37 or revocation of election shall be binding for purposes of this part.

38 (2) If a taxpayer fails to make an election for federal purposes  
39 under Section 121(d)(9) of the Internal Revenue Code to suspend  
40 the running of the five-year period described in Sections 121(a),

1 121(c)(1)(B), and 121(d)(7) of the Internal Revenue Code, that  
2 five-year period may not be suspended under Section 121(d)(9)  
3 of the Internal Revenue Code for state purposes, and a separate  
4 election for state purposes shall not be allowed under paragraph  
5 (3) of subdivision (e) of Section 17024.5.

6 (f) Section 121(d)(11) of the Internal Revenue Code, relating  
7 to property acquired from a decedent, shall not apply.

8 ~~(g) The amendments made by Section 417 of the Tax Reform  
9 and Health Care Act of 2006 (Public Law 109-432) to Section  
10 121(d)(9) of the Internal Revenue Code shall apply to sales or  
11 exchanges that occurred on or after January 1, 2007, and before  
12 January 1, 2011.~~

13 *(g) (1) The amendments made by Section 417 of the Tax Reform  
14 and Health Care Act of 2006 (Public Law 109-432) to Section  
15 121(d)(9) of the Internal Revenue Code, relating to uniformed  
16 services, foreign service, and intelligence community, shall apply  
17 to sales or exchanges that occurred on or after January 1, 2008.*

18 *(2) The amendments made by Section 7(a) of the Mortgage  
19 Forgiveness Debt Relief Act of 2007 (Public Law 110-142), to  
20 Section 121 of the Internal Revenue Code, relating to exclusion  
21 of gain from sale of principal residence, shall apply to sales or  
22 exchanges that occurred on or after January 1, 2008.*

23 SEC. 10. Section 17202.4 is added to the Revenue and Taxation  
24 Code, to read:

25 ~~17202.4. (a) Section 163(h)(4)(E) of the Internal Revenue  
26 Code, relating to qualified mortgage insurance, is modified to  
27 substitute the phrase “January 1, 2007” for “the date of the  
28 enactment of this subparagraph” in Section 163(h)(4)(E)(ii) of the  
29 Internal Revenue Code.~~

30 ~~(b) The amendments made by Section 419 of the Tax Reform  
31 and Health Care Act of 2006 (Public Law 109-432) to Section  
32 163(h) of the Internal Revenue Code shall apply to amounts paid  
33 or accrued on or after January 1, 2007.~~

34 *17202.4. Section 163 (h)(4)(E) of the Internal Revenue Code  
35 (relating to mortgage insurance premiums treated as interest)  
36 shall apply to amounts paid or accrued on or after January 1,  
37 2008.*

38 SEC. 11. Section 17206 of the Revenue and Taxation Code is  
39 amended to read:

1 17206. (a) For purposes of Section 17201, Section 170 of the  
2 Internal Revenue Code, relating to charitable, *etc.*, contributions  
3 and gifts, shall be applied to allow a taxpayer to elect to treat any  
4 contribution described in subdivision (b) made in January 2005,  
5 as if that contribution was made on December 31, 2004, and not  
6 in January 2005.

7 (b) A contribution is described in this subdivision if that  
8 contribution is a cash contribution made for the relief of victims  
9 in areas affected by the December 26, 2004, Indian Ocean tsunami  
10 for which a charitable contribution deduction is allowable under  
11 Section 17201.

12 SEC. 12. Section 17250 of the Revenue and Taxation Code is  
13 amended to read:

14 17250. (a) Section 168 of the Internal Revenue Code is  
15 modified as follows:

16 (1) Any reference to “tax imposed by this chapter” in Section  
17 168 of the Internal Revenue Code means “net tax,” as defined in  
18 Section 17039.

19 (2) (A) Section 168(e)(3) is modified to provide that any  
20 grapevine, replaced in a vineyard in California in any taxable year  
21 beginning on or after January 1, 1992, as a direct result of a  
22 phylloxera infestation in that vineyard, or replaced in a vineyard  
23 in California in any taxable year beginning on or after January 1,  
24 1997, as a direct result of Pierce’s disease in that vineyard, shall  
25 be “five-year property,” rather than “10-year property.”

26 (B) Section 168(g)(3) of the Internal Revenue Code is modified  
27 to provide that any grapevine, replaced in a vineyard in California  
28 in any taxable year beginning on or after January 1, 1992, as a  
29 direct result of a phylloxera infestation in that vineyard, or replaced  
30 in a vineyard in California in any taxable year beginning on or  
31 after January 1, 1997, as a direct result of Pierce’s disease in that  
32 vineyard, shall have a class life of 10 years.

33 (C) Every taxpayer claiming a depreciation deduction with  
34 respect to grapevines as described in this paragraph shall obtain a  
35 written certification from an independent state-certified integrated  
36 pest management adviser, or a state agricultural commissioner or  
37 adviser, that specifies that the replanting was necessary to restore  
38 a vineyard infested with phylloxera or Pierce’s disease. The  
39 taxpayer shall retain the certification for future audit purposes.

- 1 (3) Section 168(j) of the Internal Revenue Code, relating to  
 2 property on Indian reservations, shall not apply.
- 3 (4) Section 168(k) of the Internal Revenue Code, relating to  
 4 special allowance for certain property acquired after September  
 5 10, 2001, and before January 1, 2005, shall not apply.
- 6 (5) Sections 168(b)(3)(G) and 168(b)(3)(H) of the Internal  
 7 Revenue Code, relating to property to which the straight line  
 8 method applies, shall not apply.
- 9 (6) Sections 168(e)(3)(E)(iv) and 168(e)(3)(E)(v) of the Internal  
 10 Revenue Code, relating to 15-year property, shall not apply.
- 11 (7) Sections 168(e)(6) and 168(e)(7) of the Internal Revenue  
 12 Code, relating to qualified leasehold improvement property and  
 13 to qualified restaurant property, respectively, shall not apply.
- 14 (8) Section 168(l) of the Internal Revenue Code, relating to the  
 15 special allowance for cellulosic biomass ethanol plant property,  
 16 shall not apply.
- 17 (b) Section 169 of the Internal Revenue Code, relating to  
 18 amortization of pollution control facilities, is modified as follows:
- 19 (1) The deduction allowed by Section 169 of the Internal  
 20 Revenue Code shall be allowed only with respect to facilities  
 21 located in this state.
- 22 (2) The “state certifying authority,” as defined in Section  
 23 169(d)(2) of the Internal Revenue Code, means the State Air  
 24 Resources Board, in the case of air pollution, and the State Water  
 25 Resources Control Board, in the case of water pollution.
- 26 SEC. 13. Section 17250.5 of the Revenue and Taxation Code  
 27 is amended to read:
- 28 17250.5. (a) Section 167(g) of the Internal Revenue Code,  
 29 relating to depreciation under income forecast method, shall be  
 30 modified as follows:
- 31 (1) Section 167(g)(2)(C) of the Internal Revenue Code is  
 32 modified by substituting “Section 19521” in lieu of “Section  
 33 460(b)(7)” of the Internal Revenue Code.
- 34 (2) Section 167(g)(5)(D) of the Internal Revenue Code is  
 35 modified by substituting “Part 10.2 (commencing with Section  
 36 18401) (other than Section 19136)” in lieu of “Subtitle F (other  
 37 than Sections 6654 and 6655).”
- 38 (3) Section 167(g)(5)(E) of the Internal Revenue Code, relating  
 39 to treatment of distribution costs, shall not apply.

1 (4) Section 167(g)(7) of the Internal Revenue Code, relating to  
2 treatment of participations and residuals, shall not apply.

3 (b) Section 167(h) of the Internal Revenue Code, relating to  
4 amortization of geological and geophysical expenditures, shall  
5 apply to amounts paid or incurred in taxable years beginning on  
6 or after January 1, ~~2007~~ 2008.

7 SEC. 14. Section 17257 is added to the Revenue and Taxation  
8 Code, to read:

9 17257. Section 179C of the Internal Revenue Code, relating  
10 to the election to expense certain refineries, shall not apply.

11 SEC. 15. Section 17257.2 is added to the Revenue and Taxation  
12 Code, to read:

13 17257.2. Section 179D of the Internal Revenue Code, relating  
14 to the energy efficient commercial buildings deduction, shall not  
15 apply.

16 SEC. 16. Section 17257.4 is added to the Revenue and Taxation  
17 Code, to read:

18 17257.4. Section 179E of the Internal Revenue Code, relating  
19 to the election to expense advanced mine safety equipment, shall  
20 not apply.

21 SEC. 17. Section 17275.5 of the Revenue and Taxation Code  
22 is amended to read:

23 17275.5. (a) No deduction shall be denied under Section  
24 170(f)(8) of the Internal Revenue Code, relating to the  
25 substantiation requirement for certain contributions, upon a  
26 showing that the requirements in Section 170(f)(8) of the Internal  
27 Revenue Code have been met with respect to that contribution for  
28 federal purposes.

29 (b) Section 170(f)(10)(F) of the Internal Revenue Code, relating  
30 to the excise tax on premiums paid, shall not apply.

31 (c) Section 170(f)(13) of the Internal Revenue Code, relating  
32 to the fee for contributions of certain interests in buildings located  
33 in registered historic districts, shall not apply.

34 (d) Section 170(f)(18) of the Internal Revenue Code, relating  
35 to contributions to donor-advised funds, shall not apply.

36 (e) The provisions of Section 170(e)(11)(E) of the Internal  
37 Revenue Code, as amended by Section 1219(c)(1) of the Pension  
38 Protection Act of 2006 (Public Law 109-280) shall apply to  
39 appraisals prepared with respect to returns or submissions filed on  
40 or after January 1, ~~2007~~ 2008.

1 SEC. 18. Section 17501 of the Revenue and Taxation Code is  
2 amended to read:

3 17501. (a) Subchapter D of Chapter 1 of Subtitle A of the  
4 Internal Revenue Code, relating to deferred compensation, shall  
5 apply, except as otherwise provided.

6 (b) Notwithstanding the specified date contained in paragraph  
7 (1) of subdivision (a) of Section 17024.5, Part I of Subchapter D  
8 of Chapter 1 of Subtitle A of the Internal Revenue Code, relating  
9 to pension, profitsharing, stock bonus plans, etc., and Part III of  
10 Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue  
11 Code, relating to rules relating to minimum funding standards and  
12 benefit limitations, shall apply, except as otherwise provided,  
13 without regard to taxable year to the same extent as applicable for  
14 federal income tax purposes.

15 (c) The maximum amount of elective deferrals (as defined  
16 ~~2008~~in Section 402(g)(3)) for the taxable year that may be excluded  
17 from gross income under Section 402(g) of the Internal Revenue  
18 Code, as applicable for state purposes, shall not exceed the amount  
19 of elective deferrals that may be excluded from gross income under  
20 Section 402(g) of the Internal Revenue Code, as in effect on  
21 January 1, ~~2007~~ 2008, including additional elective deferrals under  
22 Section 414(v) of the Internal Revenue Code, as in effect on  
23 January 1, ~~2007~~ 2008.

24 (d) (1) For taxable years beginning on or after January 1, 2002,  
25 the basis of any person in the plan, account, or annuity shall be  
26 increased by the amount of elective deferrals not excluded as a  
27 result of the application of subdivision (c).

28 (2) Any basis described in paragraph (1) shall be recovered in  
29 the manner specified in Section 17085.

30 (e) Notwithstanding the limitations provided in subdivision (c),  
31 any income attributable to elective deferrals in taxable years  
32 beginning on or after January 1, 2002, in conformance with Part  
33 I of Subchapter D of Chapter 1 of Subtitle A of the Internal  
34 Revenue Code, as applicable for federal and state purposes, shall  
35 not be includable in the gross income of the individual for whose  
36 benefit the plan or account was established until distributed  
37 pursuant to the plan or by operation of law.

38 SEC. 19. Section 17551 of the Revenue and Taxation Code is  
39 amended to read:

1 17551. (a) Subchapter E of Chapter 1 of Subtitle A of the  
2 Internal Revenue Code, relating to accounting periods and methods  
3 of accounting, shall apply, except as otherwise provided.

4 (b) Section 444(c)(1) of the Internal Revenue Code, relating to  
5 effect of election, shall not apply.

6 (c) (1) Notwithstanding the specified date contained in  
7 paragraph (1) of subdivision (a) of Section 17024.5, Section 457  
8 of the Internal Revenue Code, relating to deferred compensation  
9 plans of state and local governments and tax-exempt organizations,  
10 shall apply, except as otherwise provided, without regard to taxable  
11 year to the same extent as applicable for federal income tax  
12 purposes.

13 (2) The maximum deferred compensation for the taxable year  
14 that may be excluded from gross income under Section 457 of the  
15 Internal Revenue Code, as applicable for state purposes, shall not  
16 exceed the amount of deferred compensation that may be excluded  
17 from gross income under Section 457 of the Internal Revenue  
18 Code, as in effect on January 1, ~~2007~~ 2008, including additional  
19 elective deferrals under Section 414(v) of the Internal Revenue  
20 Code, as in effect on January 1, ~~2007~~ 2008.

21 (d) (1) For taxable years beginning on or after January 1, 2002,  
22 the basis of any person in the plan shall be increased by the amount  
23 of compensation not allowed to be excluded under subdivision (a).

24 (2) Any basis described in paragraph (1) shall be recovered in  
25 the manner specified in Section 17085.

26 (e) Notwithstanding the limitations provided in subdivision (a),  
27 any income attributable to compensation deferred in a plan in  
28 taxable years beginning on or after January 1, 2002, in conformance  
29 with Section 457 of the Internal Revenue Code, as applicable for  
30 federal and state purposes, shall not be includable in the gross  
31 income of the individual for whose benefit the plan was established  
32 until distributed pursuant to the provisions of the plan or by  
33 operation of law.

34 (f) Section 451(i) of the Internal Revenue Code, relating to  
35 special rule for sales or dispositions to implement Federal Energy  
36 Regulatory Commission or state electric restructuring policy, shall  
37 not apply.

38 SEC. 20. Section 17755 is added to the Revenue and Taxation  
39 Code, to read:

1 17755. Section 664(c) of the Internal Revenue Code, relating  
2 to the taxation of trusts, shall not apply and, in lieu thereof, a  
3 charitable remainder annuity trust and a charitable remainder  
4 unitrust shall, for any taxable year, not be subject to any tax  
5 imposed under this part, unless that trust, for the taxable year, has  
6 unrelated business taxable income, within the meaning of Section  
7 23732, determined as if Chapter 4 (commencing with Section  
8 23701) of Part 11, applied to that trust.

9 SEC. 21. Section 17952.5 of the Revenue and Taxation Code  
10 is amended to read:

11 17952.5. (a) For purposes of computing “taxable income of a  
12 nonresident or part-year resident” under paragraph (1) of  
13 subdivision (i) of Section 17041, gross income of a nonresident,  
14 as defined in Section 17015, from sources within this state shall  
15 not include “qualified retirement income” received on or after  
16 January 1, 1996, for any part of the taxable year during which the  
17 taxpayer was not a resident of this state.

18 (b) For purposes of this section, “qualified retirement income”  
19 means income from any of the following:

20 (1) A qualified trust under Section 401(a) of the Internal  
21 Revenue Code that is exempt under Section 501(a) of the Internal  
22 Revenue Code from taxation.

23 (2) A simplified employee pension as defined in Section 408(k)  
24 of the Internal Revenue Code.

25 (3) An annuity plan described in Section 403(a) of the Internal  
26 Revenue Code.

27 (4) An annuity contract described in Section 403(b) of the  
28 Internal Revenue Code.

29 (5) An individual retirement plan described in Section  
30 7701(a)(37) of the Internal Revenue Code.

31 (6) An eligible deferred compensation plan as defined in Section  
32 457 of the Internal Revenue Code.

33 (7) A governmental plan as defined in Section 414(d) of the  
34 Internal Revenue Code.

35 (8) A trust described in Section 501(c)(18) of the Internal  
36 Revenue Code.

37 (9) Any plan, program, or arrangement described in Section  
38 3121(v)(2)(C) of the Internal Revenue Code, or any plan, program,  
39 or arrangement that *is in writing, that* provides for retirement  
40 payments in recognition of prior service to be made to a retired

1 partner, and that is in effect immediately before retirement begins,  
2 if that income is either of the following:

3 (A) Part of a series of substantially equal periodic payments  
4 (not less frequently than annually), which may include income  
5 described in paragraphs (1) to (8), inclusive, made for either of  
6 the following:

7 (i) The life or the life expectancy of the recipient (or the joint  
8 lives or joint life expectancies of the recipient and the designated  
9 beneficiary of the recipient).

10 (ii) A period of not less than 10 years.

11 (B) A payment received after termination of employment, under  
12 a plan, program, or arrangement to which that employment relates,  
13 maintained solely for the purpose of providing retirement benefits  
14 for employees in excess of the limitation imposed by Section  
15 401(a)(17), 401(k), 401(m), 402(g), 403(b), 408(k), or 415 of the  
16 Internal Revenue Code, or any combination of those sections, or  
17 any other limitation on contributions or benefits in the Internal  
18 Revenue Code on plans to which any of those sections apply.

19 (C) The fact that payments may be adjusted, from time to time,  
20 pursuant to the plan, program, or arrangement to limit total  
21 disbursements under a predetermined formula, or to provide cost  
22 of living or similar adjustments, will not cause the periodic  
23 payments provided under that plan, program, or arrangement to  
24 fail the “substantially equal periodic payments” test.

25 (10) Any retired or retainer pay of a member or former member  
26 of a uniform service computed under Section 1401 and following  
27 of Title 10 of the United States Code.

28 (c) For purposes of this section, the term “retired partner” is an  
29 individual who is described as a partner in Section 7701(a)(2) of  
30 the Internal Revenue Code and who is retired under that  
31 individual’s partnership agreement.

32 (d) This section shall apply only to any taxable year, or portion  
33 thereof, that the provisions of Section 114 of Title 4 of the United  
34 States Code, relating to limitation on state income taxation of  
35 certain pension income, are effective.

36 (e) Except as otherwise provided, references to the Internal  
37 Revenue Code are subject to paragraph (1) of subdivision (a) of  
38 Section 17024.5.

39 SEC. 22. Section 18037.5 is added to the Revenue and Taxation  
40 Code, to read:

1 18037.5. The amendments made by Section 844 of the Pension  
2 Protection Act of 2006 (Public Law 109-280) to Section 1035 of  
3 the Internal Revenue Code, shall not apply.

4 SEC. 23. Section 18155.6 is added to the Revenue and Taxation  
5 Code, to read:

6 18155.6. For taxable years beginning on or after January 1,  
7 ~~2007~~ 2008, specific reference to Sections 1223(4) through (16) of  
8 the Internal Revenue Code in this part shall instead be treated as  
9 a reference to Sections 1223(3) through (15) of the Internal  
10 Revenue Code, respectively.

11 SEC. 24. Section 18165 of the Revenue and Taxation Code is  
12 amended to read:

13 18165. (a) Section 1245(a)(2)(C) of the Internal Revenue  
14 Code, relating to certain deductions treated as amortization, is  
15 modified to also refer to Sections 17252.5, 17265, and 17266.

16 (b) Section 1245(b)(8) of the Internal Revenue Code, relating  
17 to the disposition of amortizable Section 197 intangibles, shall  
18 apply to dispositions of property on or after January 1, ~~2007~~ 2008.

19 SEC. 25. Section 18180 of the Revenue and Taxation Code is  
20 amended to read:

21 18180. (a) Section 7872 of the Internal Revenue Code, relating  
22 to the treatment of loans with below market interest rates, shall  
23 apply, except as otherwise provided.

24 (b) Section 7872(h) of the Internal Revenue Code, relating to  
25 the exception for loans to qualified continuing care facilities, shall  
26 apply to calendar years beginning on or after January 1, ~~2007~~ 2008,  
27 with respect to loans made before, on, or after that date.

28 SEC. 26. Section 18631 of the Revenue and Taxation Code is  
29 amended to read:

30 18631. (a) This article does not apply to any payment of  
31 interest obligations not taxable under Part 10 (commencing with  
32 Section 17001) or Part 11 (commencing with Section 23001).

33 (b) Except as otherwise provided, every person required to file  
34 an information return with the Secretary of the Treasury under any  
35 of the federal sections listed in subdivision (c) may be required to  
36 file a copy of the federal information return with the Franchise  
37 Tax Board at the time and in the manner as it may, by forms and  
38 instructions, require.

39 (c) Subdivision (b) shall apply to each of the following:

- 1 (1) Section 6034A of the Internal Revenue Code, relating to  
2 information to beneficiaries of estates and trusts.
- 3 (2) Section 6039 of the Internal Revenue Code, relating to  
4 information required in connection with certain options.
- 5 (3) Section 6039C of the Internal Revenue Code, relating to  
6 returns with respect to foreign persons holding direct investments  
7 in United States real property interests, if that person holds a direct  
8 investment in a California real property as defined in Section  
9 18662.
- 10 (4) Section 6041 of the Internal Revenue Code, relating to  
11 information at source.
- 12 (5) Section 6041A of the Internal Revenue Code, relating to  
13 returns regarding payments of remuneration for services and direct  
14 sales, except that no return or statement shall be required with  
15 respect to direct sales pursuant to Section 6041A(b) of the Internal  
16 Revenue Code.
- 17 (6) Section 6042 of the Internal Revenue Code, relating to  
18 returns regarding payments of dividends and corporate earnings  
19 and profits.
- 20 (7) Section 6045 of the Internal Revenue Code, relating to  
21 returns of brokers.
- 22 (8) Section 6049 of the Internal Revenue Code, relating to  
23 returns regarding payments of interest.
- 24 (9) Section 6050H of the Internal Revenue Code, relating to  
25 returns of mortgage interest received in trade or business from  
26 individuals.
- 27 (10) (A) Section 6050I of the Internal Revenue Code, relating  
28 to cash received in trade or business, etc., except that Section  
29 6050I(g) of the Internal Revenue Code, relating to cash received  
30 by criminal court, shall not apply.
- 31 (B) (i) The Attorney General shall, upon court order following  
32 a showing ex parte to a magistrate of an articulable suspicion that  
33 an individual or entity has committed a felony offense to which a  
34 federal information return is related, be provided a copy of a federal  
35 information return filed with the Franchise Tax Board under this  
36 paragraph. The Attorney General may make a return or information  
37 therefrom available to a district attorney subject to regulations  
38 promulgated by the Attorney General. The regulations shall require  
39 the district attorney seeking the return or information to specify

- 1 in writing the specific reasons for believing that a felony offense  
 2 has been committed to which the return or information is related.
- 3 (ii) Any information or return obtained by the Attorney General  
 4 or a district attorney pursuant to this subparagraph shall be  
 5 confidential and used only for investigative or prosecutorial  
 6 purposes.
- 7 (11) Section 6050J of the Internal Revenue Code, relating to  
 8 returns of foreclosures and abandonments of security.
- 9 (12) (A) Section 6050K of the Internal Revenue Code, relating  
 10 to returns of exchanges of certain partnership interests.
- 11 (B) In addition to the general requirement under subparagraph  
 12 (A), a transferor of a partnership interest shall be required to notify  
 13 the partnership of that exchange in accordance with Section  
 14 6050K(c) of the Internal Revenue Code.
- 15 (13) Section 6050L of the Internal Revenue Code, relating to  
 16 returns of certain dispositions of donated property.
- 17 (14) Section 6050N of the Internal Revenue Code, relating to  
 18 returns regarding payments of royalties.
- 19 (15) Section 6050P of the Internal Revenue Code, relating to  
 20 returns of cancellation of indebtedness by certain entities.
- 21 (16) Section 6050Q of the Internal Revenue Code, relating to  
 22 certain long-term care benefits.
- 23 (17) Section 6050R of the Internal Revenue Code, relating to  
 24 returns of certain purchases of fish.
- 25 (18) Section 6050S of the Internal Revenue Code, relating to  
 26 higher education tuition and related expenses.
- 27 (19) Section 6052 of the Internal Revenue Code, relating to  
 28 returns regarding payment of wages in the form of group-term life  
 29 insurance.
- 30 (20) Section 6034(a) of the Internal Revenue Code, relating to  
 31 returns of split-interest trusts.
- 32 (21) Section 6039I of the Internal Revenue Code, relating to  
 33 returns and records with respect to employer-owned life insurance  
 34 contracts.
- 35 (22) Section 6050V of the Internal Revenue Code, relating to  
 36 returns ~~with respect~~ relating to applicable insurance contracts in  
 37 which certain exempt organizations hold interests.
- 38 (d) Every person required to make a return under subdivision  
 39 (b) shall also furnish a statement to each person whose name is

1 required to be set forth in the return, as required to do so by the  
2 Internal Revenue Code.

3 SEC. 27. Section 19116 of the Revenue and Taxation Code is  
4 amended to read:

5 19116. (a) In the case of an individual who files a return of  
6 tax imposed under Part 10 (commencing with Section 17001) for  
7 a taxable year on or before the due date for the return, including  
8 extensions, if the Franchise Tax Board does not provide a notice  
9 to the taxpayer specifically stating the taxpayer's liability and the  
10 basis of the liability before the close of the notification period, the  
11 Franchise Tax Board shall suspend the imposition of any interest,  
12 penalty, addition to tax, or additional amount with respect to any  
13 failure relating to the return which is computed by reference to the  
14 period of time the failure continues to exist and which is properly  
15 allocable to the suspension period.

16 (b) For purposes of this section:

17 (1) Except as provided in subdivision (e), "notification period"  
18 means the ~~18-month~~ 36-month period beginning on the later of  
19 either of the following:

20 (A) The date on which the return is filed.

21 (B) The due date of the return without regard to extensions.

22 (2) "Suspension period" means the period beginning on the day  
23 after the close of the notification period and ending on the date  
24 which is 15 days after the date on which notice described in  
25 subdivision (a) is provided by the Franchise Tax Board.

26 (3) If, after the return for a taxable year is filed, the taxpayer  
27 provides to the Franchise Tax Board one or more signed written  
28 documents showing that the taxpayer owes an additional amount  
29 of tax for the taxable year, subparagraph (A) of paragraph (1) shall  
30 be applied by substituting the date the last of the documents was  
31 provided for the date on which the return is filed.

32 (c) This section shall be applied separately with respect to each  
33 item or adjustment.

34 (d) This section shall not apply to any of the following:

35 (1) Any penalty imposed by Section 19131.

36 (2) Any penalty imposed by Section 19132.

37 (3) Any interest, penalty, addition to tax, or additional amount  
38 involving fraud.

39 (4) Any interest, penalty, addition to tax, or additional amount  
40 with respect to any tax liability shown on the return.

1 (5) Any criminal penalty.

2 (6) Any interest, penalty, addition to tax, or additional amount  
3 with respect to any gross misstatement.

4 (7) Any interest, penalty, addition to tax, or additional amount  
5 relating to any reportable transaction with respect to which the  
6 requirements of Section 6664(d)(2)(A) of the Internal Revenue  
7 Code are not met, and any listed transaction, as defined in Section  
8 6707A(c) of the Internal Revenue Code.

9 (e) For taxpayers required by subdivision (a) of Section 18622  
10 to report a change or correction by the Commissioner of Internal  
11 Revenue or other officer of the United States or other competent  
12 authority the following rules shall apply:

13 (1) The notification period under subdivision (a) shall be either  
14 of the following:

15 (A) One year from the date the notice required by Section 18622  
16 is filed with the Franchise Tax Board by the taxpayer or the Internal  
17 Revenue Service, if the taxpayer or the Internal Revenue Service  
18 reports that change or correction within six months after the final  
19 federal determination.

20 (B) Two years from the date when the notice required by Section  
21 18622 is filed with the Franchise Tax Board by the taxpayer or the  
22 Internal Revenue Service, if after the six-month period required  
23 in Section 18622, a taxpayer or the Internal Revenue Service  
24 reports a change or correction.

25 (2) The suspension period under subdivision (a) shall mean the  
26 period beginning on the day after the close of the notification  
27 period under paragraph (1) and ending on the date which is 15  
28 days after the date on which notice described in subdivision (a) is  
29 provided by the Franchise Tax Board.

30 (f) For notices sent after January 1, 2004, this section does not  
31 apply to taxpayers with taxable income greater than two hundred  
32 thousand dollars (\$200,000) that have been contacted by the  
33 Franchise Tax Board regarding the use of a potentially abusive tax  
34 shelter (within the meaning of Section 19777).

35 (g) This section shall apply to taxable years ending after October  
36 10, 1999.

37 (h) The amendments made to this section by Chapter 691 of the  
38 Statutes of 2005 shall apply to notices sent after January 1, 2005.

1 ~~(i) The amendments made to this section by the act adding this~~  
2 ~~subdivision shall apply to documents provided on or after January~~  
3 ~~1, 2007.~~

4 *(i) (1) The amendments made to paragraph (1) of subdivision*  
5 *(b) by the act adding this subdivision shall apply to notices*  
6 *provided after January 1, 2008.*

7 *(2) Paragraph (3) of subdivision (b), as added by the act adding*  
8 *this subdivision, shall apply to documents provided on or after*  
9 *January 1, 2008.*

10 SEC. 27.4. Section 19134 of the Revenue and Taxation Code  
11 is amended to read:

12 19134. (a) The provisions of Section 6657 of the Internal  
13 Revenue Code, relating to bad checks, shall apply except as  
14 otherwise provided.

15 (b) Section 6657 of the Internal Revenue Code, relating to bad  
16 checks, is modified to apply to payments made by credit card  
17 remittance or electronic funds transfer (as provided by Section  
18 19011) in addition to payments made by check or money order.

19 (c) For payments received prior to January 1, 1993, this section  
20 shall be applied only to payments pertaining to taxable years  
21 beginning on or after January 1, 1990.

22 (d) For payments received on or after January 1, 1993, this  
23 section shall be applied to all payments, without regard to taxable  
24 year.

25 *(e) The amendments made to Section 6657 of the Internal*  
26 *Revenue Code by Public Law 110-28 that are incorporated by*  
27 *reference under this section shall apply to all payments received*  
28 *after the effective date of the act adding this subdivision, without*  
29 *regard to taxable year.*

30 SEC. 28. Section 19164 of the Revenue and Taxation Code is  
31 amended to read:

32 19164. (a) (1) (A) An accuracy-related penalty shall be  
33 imposed under this part and shall be determined in accordance  
34 with Section 6662 of the Internal Revenue Code, relating to  
35 imposition of accuracy-related penalty on underpayments, except  
36 as otherwise provided.

37 (B) (i) Except for understatements relating to reportable  
38 transactions to which Section 19164.5 applies, in the case of any  
39 proposed deficiency assessment issued after the last date of the  
40 amnesty period specified in Chapter 9.1 (commencing with Section

1 19730) for any taxable year beginning prior to January 1, 2003,  
2 the penalty specified in Section 6662(a) of the Internal Revenue  
3 Code shall be computed by substituting “40 percent” for “20  
4 percent.”

5 (ii) Clause (i) shall not apply to any taxable year of a taxpayer  
6 beginning prior to January 1, 2003, if, as of the start date of the  
7 amnesty program period specified in Section 19731, the taxpayer  
8 is then under audit by the Franchise Tax Board, or the taxpayer  
9 has filed a protest under Section 19041, or the taxpayer has filed  
10 an appeal under Section 19045, or the taxpayer is engaged in  
11 settlement negotiations under Section 19442, or the taxpayer has  
12 a pending judicial proceeding in any court of this state or in any  
13 federal court relating to the tax liability of the taxpayer for that  
14 taxable year.

15 (2) With respect to corporations, this subdivision shall apply to  
16 all of the following:

17 (A) All taxable years beginning on or after January 1, 1990.

18 (B) Any other taxable year for which an assessment is made  
19 after July 16, 1991.

20 (C) For purposes of this section, references in Section 6662(e)  
21 of the Internal Revenue Code and the regulations thereunder,  
22 relating to treatment of an affiliated group that files a consolidated  
23 federal return, are modified to apply to those entities required to  
24 be included in a combined report under Section 25101 or 25110.  
25 For these purposes, entities included in a combined report pursuant  
26 to paragraph (4) or (6) of subdivision (a) of Section 25110 shall  
27 be considered only to the extent required to be included in the  
28 combined report.

29 (3) Section 6662(d)(1)(B) of the Internal Revenue Code is  
30 modified to provide that in the case of a corporation, other than  
31 an “S” corporation, there is a substantial understatement of tax for  
32 any taxable year if the amount of the understatement for the taxable  
33 year exceeds the lesser of:

34 (A) Ten percent of the tax required to be shown on the return  
35 for the taxable year (or, if greater, two thousand five hundred  
36 dollars (\$2,500)).

37 (B) Five million dollars (\$5,000,000).

38 (4) Section 6662(d)(2)(A) of the Internal Revenue Code is  
39 modified to additionally provide that the excess determined under  
40 Section 6662(d)(2)(A) of the Internal Revenue Code shall be

1 determined without regard to items to which Section 19164.5  
2 applies and without regard to items with respect to which a penalty  
3 is imposed by Section 19774.

4 (5) The provisions of Sections 6662(e)(1) and 6662(h)(2) of the  
5 Internal Revenue Code, as amended by Sections 1219(a)(1) and  
6 1219(a)(2) of the Pension Protection Act of 2006 (Public Law  
7 109-280), shall apply to returns filed on or after January 1, ~~2007~~  
8 2008.

9 (b) For purposes of Section 6662(d) of the Internal Revenue  
10 Code, Section 6664 of the Internal Revenue Code, Section  
11 6694(a)(1) of the Internal Revenue Code, and this part, the  
12 Franchise Tax Board may prescribe a list of positions for which  
13 the Franchise Tax Board believes there is not substantial authority  
14 or there is no reasonable belief that the tax treatment is more likely  
15 than not the proper tax treatment. That list (and any revisions  
16 thereof) shall be published through the use of Franchise Tax Board  
17 Notices or other published positions. In addition, the “listed  
18 transactions” identified and published pursuant to the preceding  
19 sentence shall be published on the Web site of the Franchise Tax  
20 Board.

21 (c) A fraud penalty shall be imposed under this part and shall  
22 be determined in accordance with Section 6663 of the Internal  
23 Revenue Code, relating to imposition of fraud penalty, except as  
24 otherwise provided.

25 (d) (1) Section 6664 of the Internal Revenue Code, relating to  
26 definitions and special rules, shall apply, except as otherwise  
27 provided.

28 (2) Section 6664(c)(2) of the Internal Revenue Code, as amended  
29 by Section 1219(a)(3) of the Pension Protection Act of 2006 (Public  
30 Law 109-280), shall apply to returns filed on or after January 1,  
31 2007.

32 (3) Section 6664(c)(3) of the Internal Revenue Code, as amended  
33 by Section 1219(c)(2) of the Pension Protection Act of 2006 (Public  
34 Law 109-280), shall apply to appraisals prepared with respect to  
35 returns or submissions filed on or after January 1, 2007.

36 (e) *Section 6665 of the Internal Revenue Code, relating to*  
37 *applicable rules, shall apply, except as otherwise provided.*

38 *SEC. 28.4. Section 19165 is added to the Revenue and Taxation*  
39 *Code, to read:*

1 19165. (a) A penalty shall be imposed under this part for a  
2 claim or credit made for an excessive amount and shall be  
3 determined in accordance with Section 6676 of the Internal  
4 Revenue Code, relating to erroneous claim for refund or credit,  
5 except as otherwise provided.

6 (b) Article 3 (commencing with Section 19031) (relating to  
7 deficiency assessments) shall not apply with respect to the  
8 assessment or collection of any penalty imposed by subdivision  
9 (a).

10 (c) This section shall apply to any claim filed or submitted after  
11 the effective date of the act adding this section.

12 SEC. 28.6. Section 19166 of the Revenue and Taxation Code  
13 is amended to read:

14 19166. (a) A penalty shall be imposed for understatement of  
15 any taxpayer's liability by a tax return preparer and shall be  
16 determined in accordance with Section 6694 of the Internal  
17 Revenue Code, except relating to understatement of taxpayer's  
18 liability by tax return preparer, as otherwise provided.

19 ~~(b) (1) For taxpayers that have a reportable transaction, as~~  
20 ~~defined in Section 6707A(e)(1) of the Internal Revenue Code, with~~  
21 ~~respect to which the requirements of Section 6664(d)(2)(A) of the~~  
22 ~~Internal Revenue Code are not met, any listed transaction, as~~  
23 ~~defined in Section 6707A(e)(2) of the Internal Revenue Code, or~~  
24 ~~a gross misstatement within the meaning of Section 6404(g)(2)(D)~~  
25 ~~of the Internal Revenue Code, Section 6694(a) of the Internal~~  
26 ~~Revenue Code is modified to substitute "one thousand dollars~~  
27 ~~(\$1,000)" for "two hundred fifty dollars (\$250)."~~

28 ~~(2) Section 6694(a)(1) of the Internal Revenue Code is modified~~  
29 ~~to substitute the phrase "reasonable belief that the tax treatment~~  
30 ~~in that position was more likely than not the proper treatment"~~  
31 ~~instead of the phrase "realistic possibility of being sustained on~~  
32 ~~its merits" contained therein.~~

33 ~~(3) Section 6694(a)(3) of the Internal Revenue Code is modified~~  
34 ~~to substitute the phrase "or there was no reasonable basis for the~~  
35 ~~tax treatment of that position" instead of the phrase "or was~~  
36 ~~frivolous" contained therein.~~

37 ~~(e) Section 6694(b) of the Internal Revenue Code is modified~~  
38 ~~to substitute "\$5,000" for "\$1,000."~~

39 (d)

1 (b) Section 6694(c) of the Internal Revenue Code shall not apply  
2 and, in lieu thereof, the following shall apply:

3 (1) If, within 30 days after the day on which notice and demand  
4 of any penalty under Section 6694(a) or 6694(b) of the Internal  
5 Revenue Code is made against any person who is ~~an income~~ a tax  
6 return preparer, that person pays an amount which is not less than  
7 15 percent of the amount of that penalty and files a claim for refund  
8 of the amount so paid, no levy or proceeding in court for the  
9 collection of the remainder of that penalty shall be made, begun,  
10 or prosecuted until the final resolution of a proceeding begun as  
11 provided in paragraph (2). Notwithstanding Section 19381, the  
12 beginning of that proceeding or levy during the time that  
13 prohibition is in force may be enjoined in a proceeding in the  
14 superior court.

15 (2) If, within 30 days after the day on which a claim for refund  
16 of any partial payment of any penalty under Section 6694(a) or  
17 6694(b) of the Internal Revenue Code is denied (or, if earlier,  
18 within 30 days after the expiration of six months after the day on  
19 which the claim for refund has been filed), the ~~income~~ tax return  
20 preparer fails to begin a proceeding in the superior court for the  
21 determination of his or her liability for that penalty, paragraph (1)  
22 shall cease to apply with respect to that penalty, effective on the  
23 day following the close of the applicable 30-day period referred  
24 to in this subdivision.

25 (3) The running of the period of limitations provided in Section  
26 19371 on the collection by levy or by a proceeding in court in  
27 respect of any penalty described in paragraph (1) shall be  
28 suspended for the period during which the Franchise Tax Board  
29 is prohibited from collecting by levy or a proceeding in court.

30 (c) *The amendments made to this section by the act adding this*  
31 *subdivision shall apply to returns prepared after the effective date*  
32 *of this act.*

33 *SEC. 28.8. Section 19172 of the Revenue and Taxation Code*  
34 *is amended to read:*

35 19172. (a) In addition to the penalty imposed by Section 19706  
36 (relating to willful failure to file return, supply information, or pay  
37 tax), if any partnership required to file a return under Section 18633  
38 or 18633.5 for any taxable year does either of the following:

39 (1) Fails to file the return at the time prescribed therefor  
40 (determined with regard to any extension of time for filing).

1 (2) Files a return which fails to show the information required  
 2 under Section 18633 or 18633.5, that partnership shall be liable  
 3 for a penalty determined under subdivision (b) for each month (or  
 4 fraction thereof) during which that failure continues (but not to  
 5 exceed ~~five~~ 12 months), unless it is shown that the failure is due  
 6 to reasonable cause.

7 (b) For purposes of subdivision (a), the amount determined  
 8 under this subdivision for any month is the product of the  
 9 following:

10 (1) ~~Ten dollars (\$10)~~ *Seventeen dollars (\$17)*, multiplied by  
 11 (2) The number of persons who were partners in the partnership  
 12 during any part of the taxable year.

13 (c) The penalty imposed by subdivision (a) shall be assessed  
 14 against the partnership.

15 (d) Article 3 (commencing with Section 19031) ~~of this chapter~~  
 16 (relating to deficiency assessments) shall not apply with respect  
 17 to the assessment or collection of any penalty imposed by  
 18 subdivision (a).

19 (e) *The amendments made to this section by the act adding this*  
 20 *subdivision shall apply to returns required to be filed after the*  
 21 *effective date of the act adding this subdivision.*

22 SEC. 28.9. *Section 19172.5 is added to the Revenue and*  
 23 *Taxation Code, to read:*

24 19172.5. (a) *In addition to the penalty imposed by Section*  
 25 *19706 (relating to willful failure to file return, supply information,*  
 26 *or pay tax), if any "S" corporation required to file a return under*  
 27 *Section 18601 for any taxable year fails to file the return at the*  
 28 *time prescribed therefor (determined with regard to any extension*  
 29 *of time for filing), or files a return that fails to show the information*  
 30 *required under Section 18601, then that "S" corporation shall be*  
 31 *liable for a penalty determined under subdivision (b) for each*  
 32 *month (or fraction thereof) during which that failure continues*  
 33 *(but not to exceed 12 months), unless that failure is due to*  
 34 *reasonable cause.*

35 (b) *For purposes of subdivision (a), the amount determined*  
 36 *under this subdivision for any month is the product of the*  
 37 *following:*

38 (1) *Seventeen dollars (\$17), multiplied by*  
 39 (2) *The number of persons who were shareholders in the "S"*  
 40 *corporation during any part of the taxable year.*

1 (c) *The penalty imposed by subdivision (a) shall be assessed*  
2 *against the “S” corporation.*

3 (d) *Article 3 (commencing with Section 19031) (relating to*  
4 *deficiency assessments) shall not apply with respect to the*  
5 *assessment or collection of any penalty imposed by subdivision*  
6 *(a).*

7 (e) *This section shall apply to returns required to be filed after*  
8 *the effective date of the act adding this section.*

9 SEC. 29. Section 19179 of the Revenue and Taxation Code is  
10 amended to read:

11 19179. (a) A penalty shall be imposed for filing a frivolous  
12 return and shall be determined in accordance with Section 6702  
13 of the Internal Revenue Code, except as otherwise provided.

14 (b) Section 6702 of the Internal Revenue Code shall be applied  
15 to returns required to be filed under this part.

16 (c) Section 6702 of the Internal Revenue Code is modified as  
17 follows:

18 (1) (A) By substituting the phrase “tax imposed under Part 10  
19 (commencing with Section 17001), Part 11 (commencing with  
20 Section 23001), or this part” for the phrase “tax imposed by this  
21 title” contained therein.

22 (B) By substituting the phrase “frivolous or is based on a  
23 position that the Franchise Tax Board has identified as frivolous  
24 under subdivision (d)” instead of the term “frivolous” contained  
25 therein.

26 (C) By substituting the phrase “reflects a desire to delay or  
27 impede the administration of federal income tax laws as determined  
28 by the Secretary of the Treasury or the administration of the tax  
29 imposed under Part 10 (commencing with Section 17001), Part 11  
30 (commencing with Section 23001), or this part as determined by  
31 the Franchise Tax Board” instead of the phrase “reflects a desire  
32 to delay or impede the administration of Federal tax laws”  
33 contained therein.

34 (D) By substituting the phrase “is based on a position which the  
35 Secretary of the Treasury has identified as frivolous under  
36 subsection (c) of Section 6702 of the Internal Revenue Code or  
37 the Franchise Tax Board has identified as frivolous under  
38 subdivision (d)” for the phrase “is based on a position which the  
39 Secretary has identified as frivolous under subsection (c).”

1 (E) By substituting the phrase “If the Franchise Tax Board  
2 provides a person with notice that a submission is a specified  
3 frivolous submission and the person withdraws that submission  
4 within 30 days after the notice, the penalty imposed under Section  
5 6702(b)(1) of the Internal Revenue Code does not apply with  
6 respect to that submission” for the phrase “If the Secretary provides  
7 a person with notice that a submission is a specified frivolous  
8 submission and such person withdraws such submission within  
9 30 days after such notice, the penalty imposed under paragraph  
10 (1) shall not apply with respect to such submission.”

11 (2) Section 6702(b)(2)(B) of the Internal Revenue Code shall  
12 not apply and, in lieu thereof, the phrase “specified submission”  
13 means any of the following:

14 (A) A protest under Section 19041.

15 (B) A request for a hearing under Section 19044.

16 (C) An application under any of the following sections:

17 (i) Section 19008, relating to agreements for payment of tax  
18 liability in installments.

19 (ii) Section 19443, relating to compromises.

20 (iii) Section 21004, relating to actions of the Taxpayers’ Rights  
21 Advocate.

22 (iv) Section 21015.5, relating to a request for review prior to  
23 levy.

24 (d) (1) The Franchise Tax Board shall prescribe (and  
25 periodically revise) a list of positions which the Secretary of the  
26 Treasury for federal income tax purposes or the Franchise Tax  
27 Board has identified as being frivolous for purposes of this section.

28 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of  
29 Division 3 of Title 2 of the Government Code does not apply to  
30 any standard, criterion, procedure, determination, rule, notice, or  
31 guideline established or prescribed by the Franchise Tax Board  
32 pursuant to paragraph (1).

33 (e) (1) The Chief Counsel of the Franchise Tax Board may  
34 rescind all or any portion of any penalty imposed by this section  
35 if both of the following apply:

36 (A) Imposing the penalty would be against equity and good  
37 conscience.

38 (B) Rescinding the penalty would promote compliance with the  
39 requirements of this part and Part 10 (commencing with Section

1 17001) or Part 11 (commencing with Section 23001) and effective  
2 tax administration.

3 (2) The exercise of authority under paragraph (1) shall be at the  
4 sole discretion of the Chief Counsel of the Franchise Tax Board  
5 and may not be delegated.

6 (3) Notwithstanding any other law or rule of law, any  
7 determination under this subdivision may not be reviewed in any  
8 administrative or judicial proceeding.

9 (f) The penalties imposed by this section shall be in addition to  
10 any other penalty provided by law.

11 SEC. 30. Section 19185 is added to the Revenue and Taxation  
12 Code, to read:

13 19185. (a) Section 6695A of the Internal Revenue Code,  
14 relating to substantial and gross valuation misstatements  
15 attributable to incorrect appraisals, shall apply, except as otherwise  
16 provided.

17 (b) This section shall apply to appraisals prepared with respect  
18 to returns or submissions filed on or after January 1, ~~2007~~ 2008.

19 SEC. 31. Section 19186 is added to the Revenue and Taxation  
20 Code, to read:

21 19186. (a) Section 6702B of the Internal Revenue Code,  
22 relating to the fraudulent identification of exempt use property,  
23 shall apply, except as otherwise provided.

24 (b) This section shall apply to identifications made after January  
25 1, ~~2007~~ 2008.

26 SEC. 32. Section 19443 of the Revenue and Taxation Code is  
27 amended to read:

28 19443. (a) (1) The Executive Officer and Chief Counsel of  
29 the Franchise Tax Board, jointly, or their delegates, may  
30 compromise any final tax liability in which the reduction of tax is  
31 seven thousand five hundred dollars (\$7,500) or less.

32 (2) Except as provided in paragraph (3), the Franchise Tax  
33 Board, upon recommendation by its executive officer and chief  
34 counsel, jointly, may compromise a final tax liability involving a  
35 reduction in tax in excess of seven thousand five hundred dollars  
36 (\$7,500). Any recommendation for approval of an offer in  
37 compromise that is not either approved or disapproved by the  
38 Franchise Tax Board, itself, within 45 days of the submission of  
39 the recommendation shall be deemed approved.

1 (3) The Franchise Tax Board, itself, may by resolution delegate  
2 to the executive officer and the chief counsel, jointly, the authority  
3 to compromise a final tax liability in which the reduction of tax is  
4 in excess of seven thousand five hundred dollars (\$7,500) but less  
5 than ten thousand dollars (\$10,000).

6 (b) For purposes of this section, “a final tax liability” means  
7 any final tax liability arising under Part 10 (commencing with  
8 Section 17001) or Part 11 (commencing with Section 23001) or  
9 related interest, additions to tax, penalties, or other amounts  
10 assessed under this part.

11 (c) For an amount to be compromised under this section, the  
12 following conditions shall exist:

13 (1) The taxpayer shall establish that the:

14 (A) Amount offered in payment is the most that can be expected  
15 to be paid or collected from the taxpayer’s present assets or income,  
16 and

17 (B) Taxpayer does not have reasonable prospects of acquiring  
18 increased income or assets that would enable the taxpayer to satisfy  
19 a greater amount of the liability than the amount offered, within a  
20 reasonable period of time.

21 (2) The Franchise Tax Board shall have determined that  
22 acceptance of the compromise is in the best interest of the state.

23 (d) A determination by the Franchise Tax Board that it would  
24 not be in the best interest of the state to accept an offer in  
25 compromise in satisfaction of a final tax liability shall not be  
26 subject to administrative appeal or judicial review.

27 (e) When an offer in compromise is either accepted or rejected,  
28 or the terms and conditions of a compromise agreement are  
29 fulfilled, the Franchise Tax Board shall notify the taxpayer in  
30 writing.

31 (f) In the case of a joint and several liability, the acceptance of  
32 an offer in compromise from one liable spouse shall not relieve  
33 the other spouse from paying the entire liability. However, the  
34 amount of the liability shall be reduced by the amount of the  
35 accepted offer.

36 (g) Whenever a compromise of tax or penalties or total tax and  
37 penalties in excess of five hundred dollars (\$500) is approved,  
38 there shall be placed on file for at least one year in the office of  
39 the Executive Officer of the Franchise Tax Board a public record

1 with respect to that compromise. The public record shall include  
2 all of the following information:

- 3 (1) The name of the taxpayer.
- 4 (2) The amount of unpaid tax, and related penalties, additions  
5 to tax, interest, or other amounts involved.
- 6 (3) The amount offered.
- 7 (4) A summary of the reason why the compromise is in the best  
8 interest of the state.

9 The public record shall not include any information that relates  
10 to any trade secret, patent, process, style of work, apparatus,  
11 business secret, or organizational structure, that if disclosed, would  
12 adversely affect the taxpayer or the national defense. No list shall  
13 be prepared and no releases distributed by the Franchise Tax Board  
14 in connection with these statements.

15 (h) Any compromise made under this section may be rescinded,  
16 all compromised liabilities may be reestablished (without regard  
17 to any statute of limitations that otherwise may be applicable), and  
18 no portion of the amount offered in compromise refunded, if either  
19 of the following occurs:

20 (1) The Franchise Tax Board determines that any person did  
21 any of the following acts regarding the making of the offer:

22 (A) Concealed from the Franchise Tax Board any property  
23 belonging to the estate of any taxpayer or other person liable for  
24 the tax.

25 (B) Received, withheld, destroyed, mutilated, or falsified any  
26 book, document, or record or made any false statement, relating  
27 to the estate or financial condition of the taxpayer or other person  
28 liable for the tax.

29 (2) The taxpayer fails to either:

30 (A) Comply with any of the terms and conditions relative to the  
31 offer.

32 (B) File subsequent required returns and pay subsequent final  
33 tax liabilities within 20 days after the Franchise Tax Board issues  
34 notice and demand to the person stating that the continued failure  
35 to file or pay the tax may result in rescission of the compromise.

36 (i) Notwithstanding any other provision of this section, if the  
37 Franchise Tax Board determines that any portion of an application  
38 for an offer-in-compromise or installment agreement submitted  
39 under this section or Section 19008 meets the requirement of clause  
40 (i) or (ii) of Section 6702(b)(2)(A) of the Internal Revenue Code,

1 as modified by Section 19179, then the Franchise Tax Board may  
2 treat that portion as if it were never submitted and that portion  
3 shall not be subject to any further administrative or judicial review.

4 (j) This section shall become operative on the effective date of  
5 Chapter 931 of the Statutes of 1999 without regard to the taxable  
6 year at issue.

7 SEC. 33. Section 21015.5 of the Revenue and Taxation Code  
8 is amended to read:

9 21015.5. (a) (1) No levy may be made on any property or  
10 property right of any person unless the board has notified the  
11 person in writing of his or her rights as described in subparagraph  
12 (C) of paragraph (3) before the levy is made. Except as provided  
13 in subdivision (f), the notice shall be required only once for the  
14 taxable period to which the unpaid tax specified in subparagraph  
15 (A) of paragraph (3) relates. The notice shall not be required if the  
16 unpaid tax for which notice would otherwise be required under  
17 this paragraph is consolidated for collection purposes with a  
18 preexisting unpaid tax for which notice has been given under this  
19 paragraph.

20 (2) The notice required by paragraph (1) shall be made by  
21 first-class mail to the address of record not less than 30 days before  
22 the day of the first levy with respect to the amount of the unpaid  
23 tax for the taxable period. Notice under paragraph (1) is not  
24 required if previous mail to the same address was returned  
25 undelivered with no forwarding address.

26 (3) The notice required under paragraph (1) shall specify, in  
27 simple and nontechnical terms, all of the following:

- 28 (A) The amount of unpaid tax.
- 29 (B) A telephone number to call in the event of any questions.
- 30 (C) The right of the person to request a review during the 30-day  
31 period described in paragraph (2).
- 32 (D) The proposed action or actions that may be taken by the  
33 Franchise Tax Board and the rights of the person with respect to  
34 the action or actions, including a brief statement that sets forth all  
35 of the following:
  - 36 (i) The provisions of California law relating to levy and sale of  
37 property.
  - 38 (ii) The procedures applicable to the levy and sale of property  
39 under California law.

1 (iii) The independent departmental administrative review  
2 available to the taxpayers with respect to the levy and sale and the  
3 procedures to obtain that review.

4 (iv) The alternatives available to taxpayers that could prevent  
5 levy on property, including installment agreements under Section  
6 19008.

7 (v) California legal requirements and procedures with respect  
8 to the release of levy.

9 (b) (1) The Taxpayers' Rights Advocate shall establish  
10 procedures for an independent departmental administrative review  
11 for taxpayers who request review under subparagraph (C) of  
12 paragraph (3) of subdivision (a).

13 (2) A person shall be entitled to only one review under this  
14 section with respect to the taxable period to which the unpaid tax  
15 specified in subparagraph (A) of paragraph (3) of subdivision (a)  
16 relates.

17 (3) An independent departmental administrative review under  
18 this subdivision shall be conducted by an officer or employee, or  
19 officers or employees, who have had no prior involvement with  
20 respect to the unpaid tax specified in subparagraph (A) of paragraph  
21 (3) of subdivision (a) before the first review under this section or  
22 Section 19225. A taxpayer may waive the requirement of this  
23 paragraph. Administrative review under this subdivision is not  
24 subject to Chapter 4.5 (commencing with Section 11400) of Part  
25 1 of Division 3 of the Government Code.

26 (c) (1) The person or persons conducting the independent  
27 departmental administrative review shall obtain verification that  
28 the requirements of any applicable law or administrative procedures  
29 have been met by the board.

30 (2) The taxpayer may raise during the review any relevant issue  
31 relating to the unpaid tax or the lien, including any of the following:

32 (A) Appropriate spousal defenses.

33 (B) Challenges to the appropriateness of collection actions.

34 (C) Offers of collection alternatives, that may include the posting  
35 of a bond, the substitution of other assets, an installment agreement,  
36 or an offer-in-compromise.

37 (3) The determination of the person or persons conducting the  
38 review under this subdivision shall take into consideration all of  
39 the following:

40 (A) The verification presented under paragraph (1).

1 (B) The issues raised under paragraph (2).

2 (C) Whether any proposed collection action balances the need  
3 for the efficient collection of taxes with the legitimate concern of  
4 the person that any collection action not be more intrusive than  
5 necessary.

6 (4) An issue may not be raised during the review if:

7 (A) The issue was raised and considered at a previous review  
8 under this section or in any other administrative or judicial  
9 proceeding.

10 (B) The person seeking to raise the issue participated  
11 meaningfully in the review or proceeding.

12 (C) The issue meets the requirement of clause (i) or (ii) of  
13 Section 6702(b)(2)(A) of the Internal Revenue Code.

14 This paragraph does not apply to any issue with respect to a  
15 change in circumstances of that person that affects the  
16 determination.

17 (d) If review is requested under subparagraph (C) of paragraph  
18 (3) of subdivision (a), the levy actions that are the subject of the  
19 requested review shall be suspended for the period during which  
20 the review is pending. In no event shall any period expire before  
21 the 15th day after the day upon which there is a final determination  
22 in the review.

23 (e) This section does not apply if the board has made a finding  
24 under Section 19081 or Section 19082 that the collection of tax is  
25 in jeopardy except that the taxpayer shall be given the opportunity  
26 for the review described in this section within a reasonable period  
27 of time after the levy.

28 (f) If the board holds in abeyance the collection of a liability  
29 imposed under Part 10 (commencing with Section 17001) or Part  
30 10.2 (commencing with Section 18401), that is final and otherwise  
31 due and payable, for a period in excess of six months from the date  
32 the hold is first placed on the account, the board shall thereafter  
33 mail to the taxpayer a notice prior to issuing a levy or filing or  
34 recording a notice of state tax lien.

35 (g) This section is operative for collection actions initiated after  
36 the date which is 180 days after the effective date of the act adding  
37 this section.

38 (h) Notwithstanding any other provision of this section, if the  
39 board determines that any portion of a request for review under  
40 this section meets the requirement of clause (i) or (ii) of Section

1 6702(b)(2)(A) of the Internal Revenue Code, as modified by  
2 Section 19179, then the Franchise Tax Board may treat that portion  
3 as if it were never submitted and that portion shall not be subject  
4 to any further administrative or judicial review.

5 SEC. 34. Section 23045 of the Revenue and Taxation Code is  
6 amended to read:

7 23045. For purposes of this part:

8 (a) Section 7702 of the Internal Revenue Code, relating to life  
9 insurance contracts, shall apply, except as otherwise provided.

10 (b) Section 7702A of the Internal Revenue Code, relating to  
11 modified endowment contracts, shall apply, except as otherwise  
12 provided.

13 (c) (1) Section 7702B of the Internal Revenue Code, relating  
14 to treatment of qualified long-term care insurance, shall apply,  
15 except as otherwise provided.

16 (2) The amendments made by Section 844 of the Pension  
17 Protection Act of 2006 (Public Law 109-280) to Section 7702B  
18 of the Internal Revenue Code shall not apply.

19 SEC. 35. Section 23046.5 is added to the Revenue and Taxation  
20 Code, to read:

21 23046.5. (a) Section 7701(o) of the Internal Revenue Code,  
22 relating to convention or association of churches, shall apply,  
23 except as otherwise provided.

24 (b) The phrase “this part” shall be substituted for “this title” in  
25 Section 7701(o) of the Internal Revenue Code.

26 SEC. 36. Section 23051.5 of the Revenue and Taxation Code  
27 is amended to read:

28 23051.5. (a) (1) Unless otherwise specifically provided, the  
29 terms “Internal Revenue Code,” “Internal Revenue Code of 1954,”  
30 or “Internal Revenue Code of 1986,” for purposes of this part,  
31 mean Title 26 of the United States Code, including all amendments  
32 thereto, as enacted on the specified date for the applicable taxable  
33 year as defined in paragraph (1) of subdivision (a) of Section  
34 17024.5.

35 (2) (A) Unless otherwise specifically provided, for federal laws  
36 enacted on or after January 1, 1987, and on or before the specified  
37 date for the taxable year, uncodified provisions that relate to  
38 provisions of the Internal Revenue Code that are incorporated for  
39 purposes of this part, shall be applicable to the same taxable years  
40 as the incorporated provisions.

1 (B) In the case where Section 901 of the Economic Growth and  
2 Tax Relief Act of 2001 (Public Law 107-16) applies to any  
3 provision of the Internal Revenue Code that is incorporated for  
4 purposes of this part, Section 901 of the Economic Growth and  
5 Tax Relief Act of 2001 (Public Law 107-16) shall apply for  
6 purposes of this part in the same manner and to the same taxable  
7 years as it applies for federal income tax purposes.

8 (3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle  
9 H (Repeal of Expired or Obsolete Provisions) of the Revenue  
10 Reconciliation Act of 1990 (Public Law 101-508) modified  
11 numerous provisions of the Internal Revenue Code and provisions  
12 of prior federal acts, some of which are incorporated by reference  
13 into this part. Unless otherwise provided, the provisions described  
14 in the preceding sentence, to the extent that they modify provisions  
15 that are incorporated into this part, are declaratory of existing law  
16 and shall be applied in the same manner and for the same periods  
17 as specified in the Revenue Reconciliation Act of 1990.

18 (b) Unless otherwise specifically provided, when applying the  
19 Internal Revenue Code for purposes of this part, a reference to any  
20 of the following is not applicable for purposes of this part:

21 (1) Domestic International Sales Corporations (DISC), as  
22 defined in Section 992(a) of the Internal Revenue Code.

23 (2) Foreign Sales Corporations (FSC), as defined in Section  
24 922(a) of the Internal Revenue Code.

25 (3) A personal holding company, as defined in Section 542 of  
26 the Internal Revenue Code.

27 (4) A foreign personal holding company, as defined in Section  
28 552 of the Internal Revenue Code.

29 (5) A foreign investment company, as defined in Section 1246(b)  
30 of the Internal Revenue Code.

31 (6) A foreign trust as defined in Section 679 of the Internal  
32 Revenue Code.

33 (7) Foreign income taxes and foreign income tax credits.

34 (8) Federal tax credits and carryovers of federal tax credits.

35 (c) (1) The provisions contained in Sections 41 to 44, inclusive,  
36 and Section 172 of the Tax Reform Act of 1984 (Public Law  
37 98-369), relating to treatment of debt instruments, is not applicable  
38 for taxable years beginning before January 1, 1987.

1 (2) The provisions contained in Public Law 99-121, relating to  
2 the treatment of debt instruments, is not applicable for taxable  
3 years beginning before January 1, 1987.

4 (3) For taxable years beginning on and after January 1, 1987,  
5 the provisions referred to by paragraphs (1) and (2) shall be  
6 applicable for purposes of this part in the same manner and with  
7 respect to the same obligations as the federal provisions, except  
8 as otherwise provided in this part.

9 (d) When applying the Internal Revenue Code for purposes of  
10 this part, regulations promulgated in final form or issued as  
11 temporary regulations by “the secretary” shall be applicable as  
12 regulations issued under this part to the extent that they do not  
13 conflict with this part or with regulations issued by the Franchise  
14 Tax Board.

15 (e) Whenever this part allows a taxpayer to make an election,  
16 the following rules shall apply:

17 (1) A proper election filed with the Internal Revenue Service  
18 in accordance with the Internal Revenue Code or regulations issued  
19 by “the secretary” shall be deemed to be a proper election for  
20 purposes of this part, unless otherwise expressly provided in this  
21 part or in regulations issued by the Franchise Tax Board.

22 (2) A copy of that election shall be furnished to the Franchise  
23 Tax Board upon request.

24 (3) (A) Except as provided in subparagraph (B), in order to  
25 obtain treatment other than that elected for federal purposes, a  
26 separate election shall be filed with the Franchise Tax Board at  
27 the time and in the manner that may be required by the Franchise  
28 Tax Board.

29 (B) (i) If a taxpayer makes a proper election for federal income  
30 tax purposes prior to the time that taxpayer becomes subject to the  
31 tax imposed under this part or Part 10 (commencing with Section  
32 17001), that taxpayer is deemed to have made the same election  
33 for purposes of the tax imposed by this part, Part 10 (commencing  
34 with Section 17001), and Part 10.2 (commencing with Section  
35 18401), as applicable, and that taxpayer may not make a separate  
36 election for California tax purposes unless that separate election  
37 is expressly authorized by this part, Part 10 (commencing with  
38 Section 17001), or Part 10.2 (commencing with Section 18401),  
39 or by regulations issued by the Franchise Tax Board.

1 (ii) If a taxpayer has not made a proper election for federal  
 2 income tax purposes prior to the time that taxpayer becomes subject  
 3 to tax under this part or Part 10 (commencing with Section 17001),  
 4 that taxpayer may not make a separate California election for  
 5 purposes of this part, Part 10 (commencing with Section 17001),  
 6 or Part 10.2 (commencing with Section 18401), unless that separate  
 7 election is expressly authorized by this part, Part 10 (commencing  
 8 with Section 17001), Part 10.2 (commencing with Section 18401),  
 9 or by regulations issued by the Franchise Tax Board.

10 (iii) This subparagraph applies only to the extent that the  
 11 provisions of the Internal Revenue Code or regulations issued by  
 12 “the secretary” authorizing an election for federal income tax  
 13 purposes apply for purposes of this part, Part 10 (commencing  
 14 with Section 17001), or Part 10.2 (commencing with Section  
 15 18401).

16 (f) Whenever this part allows or requires a taxpayer to file an  
 17 application or seek consent, the rules set forth in subdivision (e)  
 18 shall apply to that application or consent.

19 (g) When applying the Internal Revenue Code for purposes of  
 20 determining the statute of limitations under this part, any reference  
 21 to a period of three years shall be modified to read four years for  
 22 purposes of this part.

23 (h) When applying, for purposes of this part, any section of the  
 24 Internal Revenue Code or any applicable regulation thereunder,  
 25 all of the following shall apply:

26 (1) For purposes of Chapter 2 (commencing with Section  
 27 23101), Chapter 2.5 (commencing with Section 23400), and  
 28 Chapter 3 (commencing with Section 23501), the term “taxable  
 29 income” shall mean “net income.”

30 (2) For purposes of Article 2 (commencing with Section 23731)  
 31 of Chapter 4, the term “taxable income” shall mean “unrelated  
 32 business taxable income,” as defined by Section 23732.

33 (3) Any reference to “subtitle,” “Chapter 1,” or “chapter” shall  
 34 mean this part.

35 (4) The provisions of Section 7806 of the Internal Revenue  
 36 Code, relating to construction of title, shall apply.

37 (5) Any provision of the Internal Revenue Code that becomes  
 38 operative on or after the specified date for that taxable year shall  
 39 become operative on the same date for purposes of this part.

1 (6) Any provision of the Internal Revenue Code that becomes  
2 inoperative on or after the specified date for that taxable year shall  
3 become inoperative on the same date for purposes of this part.

4 (7) Due account shall be made for differences in federal and  
5 state terminology, effective dates, substitution of “Franchise Tax  
6 Board” for “secretary” when appropriate, and other obvious  
7 differences.

8 (8) Any provision of the Internal Revenue Code that refers to  
9 a “corporation” shall, when applicable for purposes of this part,  
10 include a “bank,” as defined by Section 23039.

11 (9) Except as otherwise provided, any reference to Section 501  
12 of the Internal Revenue Code shall be interpreted to also refer to  
13 Section 23701.

14 (i) Any reference to a specific provision of the Internal Revenue  
15 Code shall include modifications of that provision, if any, in this  
16 part.

17 SEC. 37. Section 23609 of the Revenue and Taxation Code is  
18 amended to read:

19 23609. For each taxable year beginning on or after January 1,  
20 1987, there shall be allowed as a credit against the “tax” (as defined  
21 by Section 23036) an amount determined in accordance with  
22 Section 41 of the Internal Revenue Code, except as follows:

23 (a) For each taxable year beginning before January 1, 1997,  
24 both of the following modifications shall apply:

25 (1) The reference to “20 percent” in Section 41(a)(1) of the  
26 Internal Revenue Code is modified to read “8 percent.”

27 (2) The reference to “20 percent” in Section 41(a)(2) of the  
28 Internal Revenue Code is modified to read “12 percent.”

29 (b) (1) For each taxable year beginning on or after January 1,  
30 1997, and before January 1, 1999, both of the following  
31 modifications shall apply:

32 (A) The reference to “20 percent” in Section 41(a)(1) of the  
33 Internal Revenue Code is modified to read “11 percent.”

34 (B) The reference to “20 percent” in Section 41(a)(2) of the  
35 Internal Revenue Code is modified to read “24 percent.”

36 (2) For each taxable year beginning on or after January 1, 1999,  
37 and before January 1, 2000, both of the following shall apply:

38 (A) The reference to “20 percent” in Section 41(a)(1) of the  
39 Internal Revenue Code is modified to read “12 percent.”

1 (B) The reference to “20 percent” in Section 41(a)(2) of the  
2 Internal Revenue Code is modified to read “24 percent.”

3 (3) For each taxable year beginning on or after January 1, 2000,  
4 both of the following shall apply:

5 (A) The reference to “20 percent” in Section 41(a)(1) of the  
6 Internal Revenue Code is modified to read “15 percent.”

7 (B) The reference to “20 percent” in Section 41(a)(2) of the  
8 Internal Revenue Code is modified to read “24 percent.”

9 (c) (1) With respect to any expense paid or incurred after the  
10 operative date of Section 6378, Section 41(b)(1) of the Internal  
11 Revenue Code is modified to exclude from the definition of  
12 “qualified research expense” any amount paid or incurred for  
13 tangible personal property that is eligible for the exemption from  
14 sales or use tax provided by Section 6378.

15 (2) “Qualified research” and “basic research” shall include only  
16 research conducted in California.

17 (d) The provisions of Section 41(e)(7)(A) of the Internal  
18 Revenue Code, shall be modified so that “basic research,” for  
19 purposes of this section, includes any basic or applied research  
20 including scientific inquiry or original investigation for the  
21 advancement of scientific or engineering knowledge or the  
22 improved effectiveness of commercial products, except that the  
23 term does not include any of the following:

24 (1) Basic research conducted outside California.

25 (2) Basic research in the social sciences, arts, or humanities.

26 (3) Basic research for the purpose of improving a commercial  
27 product if the improvements relate to style, taste, cosmetic, or  
28 seasonal design factors.

29 (4) Any expenditure paid or incurred for the purpose of  
30 ascertaining the existence, location, extent, or quality of any deposit  
31 of ore or other mineral (including oil and gas).

32 (e) (1) In the case of a taxpayer engaged in any  
33 biopharmaceutical research activities that are described in codes  
34 2833 to 2836, inclusive, or any research activities that are described  
35 in codes 3826, 3829, or 3841 to 3845, inclusive, of the Standard  
36 Industrial Classification (SIC) Manual published by the United  
37 States Office of Management and Budget, 1987 edition, or any  
38 other biotechnology research and development activities, the  
39 provisions of Section 41(e)(6) of the Internal Revenue Code shall  
40 be modified to include both of the following:

1 (A) A qualified organization as described in Section  
2 170(b)(1)(A)(iii) of the Internal Revenue Code and owned by an  
3 institution of higher education as described in Section 3304(f) of  
4 the Internal Revenue Code.

5 (B) A charitable research hospital owned by an organization  
6 that is described in Section 501(c)(3) of the Internal Revenue Code,  
7 is exempt from taxation under Section 501(a) of the Internal  
8 Revenue Code, is not a private foundation, is designated a  
9 “specialized laboratory cancer center,” and has received Clinical  
10 Cancer Research Center status from the National Cancer Institute.

11 (2) For purposes of this subdivision:

12 (A) “Biopharmaceutical research activities” means those  
13 activities that use organisms or materials derived from organisms,  
14 and their cellular, subcellular, or molecular components, in order  
15 to provide pharmaceutical products for human or animal  
16 therapeutics and diagnostics. Biopharmaceutical activities make  
17 use of living organisms to make commercial products, as opposed  
18 to pharmaceutical activities that make use of chemical compounds  
19 to produce commercial products.

20 (B) “Other biotechnology research and development activities”  
21 means research and development activities consisting of the  
22 application of recombinant DNA technology to produce  
23 commercial products, as well as research and development  
24 activities regarding pharmaceutical delivery systems designed to  
25 provide a measure of control over the rate, duration, and site of  
26 pharmaceutical delivery.

27 (f) In the case where the credit allowed by this section exceeds  
28 the “tax,” the excess may be carried over to reduce the “tax” in  
29 the following year, and succeeding years if necessary, until the  
30 credit has been exhausted.

31 (g) For each taxable year beginning on or after January 1, 1998,  
32 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the  
33 Internal Revenue Code, relating to contract research expenses, is  
34 modified to read “this part or Part 10 (commencing with Section  
35 17001).”

36 (h) (1) For each taxable year beginning on or after January 1,  
37 2000:

38 (A) The reference to “3 percent” in Section 41(c)(4)(A)(i) of  
39 the Internal Revenue Code is modified to read “one and forty-nine  
40 hundredths of one percent.”

1 (B) The reference to “4 percent” in Section 41(c)(4)(A)(ii) of  
2 the Internal Revenue Code is modified to read “one and  
3 ninety-eight hundredths of one percent.”

4 (C) The reference to “5 percent” in Section 41(c)(4)(A)(iii) of  
5 the Internal Revenue Code is modified to read “two and forty-eight  
6 hundredths of one percent.”

7 (2) Section 41(c)(4)(B) shall not apply and in lieu thereof an  
8 election under Section 41(c)(4)(A) of the Internal Revenue Code  
9 may be made for any taxable year of the taxpayer beginning on or  
10 after January 1, 1998. That election shall apply to the taxable year  
11 for which made and all succeeding taxable years unless revoked  
12 with the consent of the Franchise Tax Board.

13 (3) Section 41(c)(7) of the Internal Revenue Code, relating to  
14 gross receipts, is modified to take into account only those gross  
15 receipts from the sale of property held primarily for sale to  
16 customers in the ordinary course of the taxpayer’s trade or business  
17 that is delivered or shipped to a purchaser within this state,  
18 regardless of f.o.b. point or any other condition of the sale.

19 (4) Section 41(c)(5) of the Internal Revenue Code, relating to  
20 the election of the alternative simplified credit, shall not apply.

21 (i) Section 41(h) of the Internal Revenue Code, relating to  
22 termination, shall not apply.

23 (j) Section 41(g) of the Internal Revenue Code, relating to  
24 special rule for passthrough of credit, is modified by each of the  
25 following:

26 (1) The last sentence shall not apply.

27 (2) If the amount determined under Section 41(a) of the Internal  
28 Revenue Code for any taxable year exceeds the limitation of  
29 Section 41(g) of the Internal Revenue Code, that amount may be  
30 carried over to other taxable years under the rules of subdivision  
31 (f), except that the limitation of Section 41(g) of the Internal  
32 Revenue Code shall be taken into account in each subsequent  
33 taxable year.

34 (k) (1) Section 41(a)(3) of the Internal Revenue Code, relating  
35 to payment to an energy research consortium, shall not apply.

36 (2) Section 41(b)(3)(D) of the Internal Revenue Code, relating  
37 to amounts paid to eligible small businesses, universities, and  
38 federal laboratories, shall not apply.

39 (3) Section 41(f)(6) of the Internal Revenue Code, relating to  
40 an energy research consortium, shall not apply.

1 SEC. 38. Section 23703.7 is added to the Revenue and Taxation  
2 Code, to read:

3 23703.7. Section 501(q) of the Internal Revenue Code, relating  
4 to special rules for credit counseling organizations, shall apply,  
5 except as otherwise provided.

6 (a) The phrase “Section 23701” shall be substituted for  
7 “subsection (a)” in Section 501(q)(1) of the Internal Revenue Code.

8 (b) The phrase “described in Section 23701d or Section 23701f”  
9 shall be substituted for “described in paragraph (3) or (4) of  
10 subsection (c)” in Section 501(q)(1) of the Internal Revenue Code.

11 (c) The phrase “described in Section 23701d and exempt from  
12 tax under Section 23701” shall be substituted for “described in  
13 subsection (c)(3) and exempt from tax under subsection (a)” in  
14 each place that it appears in Section 501(q)(1)(E) of the Internal  
15 Revenue Code.

16 (d) The phrase “described in Section 23701d shall not be exempt  
17 from tax under Section 23701” shall be substituted for “described  
18 in paragraph (3) of subsection (c) shall not be exempt from tax  
19 under subsection (a)” in Section 501(q)(2)(A) of the Internal  
20 Revenue Code.

21 (e) The phrase “described in Section 23701d and exempt from  
22 tax under Section 23701 on January 1, 2007,” shall be substituted  
23 for “described in paragraph (3) of subsection (c) and exempt from  
24 tax under subsection (a) on the date of the enactment of this  
25 subsection” in Section 501(q)(2)(B)(ii) of the Internal Revenue  
26 Code.

27 (f) The phrase “January 1, ~~2007,~~ 2008,” shall be substituted  
28 for “the date of the enactment of this subsection” in Section  
29 501(q)(2)(B)(ii)(I) of the Internal Revenue Code.

30 (g) The phrase “described in Section 23701f shall not be exempt  
31 from tax under Section 23701” shall be substituted for “described  
32 in paragraph (4) of subsection (c) shall not be exempt from tax  
33 under subsection (a)” in Section 501(q)(3) of the Internal Revenue  
34 Code.

35 ~~SEC. 39. Section 23732 of the Revenue and Taxation Code is~~  
36 ~~amended to read:~~

37 ~~23732. Section 512 of the Internal Revenue Code, relating to~~  
38 ~~unrelated business taxable income, shall apply, except as otherwise~~  
39 ~~provided.~~

1 ~~(a) Section 512(a)(2) of the Internal Revenue Code, relating to~~  
2 ~~special rules for foreign organizations, shall not be applicable.~~

3 ~~(b) Section 512(a)(3) of the Internal Revenue Code, relating to~~  
4 ~~special rules applicable to certain organizations, shall be modified~~  
5 ~~as follows:~~

6 ~~(1) The reference to Section 501(e)(7) of the Internal Revenue~~  
7 ~~Code, relating to clubs organized for pleasure, recreation, and other~~  
8 ~~nonprofitable purposes, shall be modified to refer to Section~~  
9 ~~23701g.~~

10 ~~(2) The reference to Section 501(e)(9) of the Internal Revenue~~  
11 ~~Code, relating to voluntary employees' beneficiary associations,~~  
12 ~~shall be modified to refer to Section 23701i.~~

13 ~~(3) The reference to Section 501(e)(17) of the Internal Revenue~~  
14 ~~Code, relating to trusts providing for payment of supplemental~~  
15 ~~unemployment compensation benefits, shall be modified to refer~~  
16 ~~to Section 23701n.~~

17 ~~(4) The reference to Section 501(e)(20) of the Internal Revenue~~  
18 ~~Code, relating to qualified group legal services plans, shall be~~  
19 ~~modified to refer to Section 23701q.~~

20 ~~(e) Section 512(d) of the Internal Revenue Code, relating to~~  
21 ~~treatment of dues of agricultural or horticultural organizations,~~  
22 ~~shall be modified by substituting "Section 23701a" in lieu of~~  
23 ~~"Section 501(e)(5)" of the Internal Revenue Code.~~

24 ~~(d) Section 512(b)(13)(E) of the Internal Revenue Code is~~  
25 ~~modified as follows:~~

26 ~~(1) The phrase "tax imposed under Part 10 (commencing with~~  
27 ~~Section 17001) or this part" shall be substituted for "tax imposed~~  
28 ~~by this chapter" in Section 512(b)(13)(E)(ii) of the Internal~~  
29 ~~Revenue Code.~~

30 ~~(2) The phrase "January 1, 2007," shall be substituted for "the~~  
31 ~~date of the enactment of this subparagraph" in Section~~  
32 ~~512(b)(13)(E)(iii)(I) of the Internal Revenue Code.~~

33 ~~(3) The amendments made by the act adding this subdivision~~  
34 ~~shall apply to payments received or accrued on or after January 1,~~  
35 ~~2007.~~

36 SEC. 40. Section 23772 of the Revenue and Taxation Code is  
37 amended to read:

38 23772. (a) For the purposes of this part—

39 (1) Except as provided in paragraph (2), every organization  
40 exempt from taxation under Section 23701 and every trust treated

1 as a private foundation because of Section 4947(a)(1) of the  
2 Internal Revenue Code shall file an annual return, stating  
3 specifically the items of gross income, receipts, and disbursements,  
4 and any other information for the purpose of carrying out the laws  
5 under this part as the Franchise Tax Board may by rules or  
6 regulations prescribe, and shall keep any records, render under  
7 oath any statements, make any other returns, and comply with any  
8 rules and regulations as the Franchise Tax Board may from time  
9 to time prescribe. The return shall be filed on or before the 15th  
10 day of the fifth full calendar month following the close of the  
11 taxable year.

12 (2) Exceptions from filing—

13 (A) Mandatory exceptions—Paragraph (1) does not apply to—

14 (i) Churches, their integrated auxiliaries, and conventions or  
15 association of churches,

16 (ii) Any organization (other than a private foundation as defined  
17 in Section 23709), the gross receipts of which in each taxable year  
18 are normally not more than twenty-five thousand dollars (\$25,000),  
19 or

20 (iii) The exclusively religious activities of any religious order.

21 (B) Discretionary exceptions—The Franchise Tax Board may  
22 permit the filing of a simplified return for organizations based on  
23 either gross receipts or total assets or both gross receipts and total  
24 assets, or may permit the filing of an information statement  
25 (without fee), or may permit the filing of a group return for  
26 incorporated or unincorporated branches of a state or national  
27 organization where it determines that an information return is not  
28 necessary to the efficient administration of this part.

29 (3) An organization that is required to file an annual information  
30 return shall pay a filing fee of ten dollars (\$10) on or before the  
31 due date for filing the annual information return (determined with  
32 regard to any extension of time for filing the return) required by  
33 this section. In case of failure to pay the fee on or before the due  
34 date, unless it is shown that the failure is due to reasonable cause,  
35 the filing fee shall be twenty-five dollars (\$25). All collection  
36 remedies provided in Article 5 (commencing with Section 18661)  
37 of Chapter 2 of Part 10.2 are applicable to collection of the filing  
38 fee. However, the filing fee does not apply to the organization  
39 described in paragraph (4).

1 (4) Paragraph (3) does not apply to: (A) a religious organization  
2 exempt under Section 23701d; (B) an educational organization  
3 exempt under Section 23701d, if that organization normally  
4 maintains a regular faculty and curriculum and normally has a  
5 regularly organized body of pupils or students in attendance at the  
6 place where its educational activities are regularly carried on; (C)  
7 a charitable organization, or an organization for the prevention of  
8 cruelty to children or animals, exempt under Section 23701d, if  
9 that organization is supported, in whole or in part, by funds  
10 contributed by the United States or any state or political subdivision  
11 thereof, or is primarily supported by contributions of the general  
12 public; (D) an organization exempt under Section 23701d, if that  
13 organization is operated, supervised, or controlled by or in  
14 connection with a religious organization described in subparagraph  
15 (A).

16 (b) Every organization described in Section 23701d that is  
17 subject to the requirements of subdivision (a) is required to furnish  
18 annually information, at the time and in the manner as the Franchise  
19 Tax Board may by rules or regulations prescribe, setting forth all  
20 of the following:

21 (1) Its gross income for the year.

22 (2) Its expenses attributable to gross income and incurred within  
23 the year.

24 (3) Its disbursements within the year for the purposes for which  
25 it is exempt.

26 (4) A balance sheet showing its assets, liabilities, and net worth  
27 as of the beginning of that year.

28 (5) The total of the contributions and gifts received by it during  
29 the year, and the names and addresses of all substantial  
30 contributors.

31 (6) The names and addresses of its foundation manager (within  
32 the meaning of Section 4946 of the Internal Revenue Code) and  
33 highly compensated employees.

34 (7) The compensation and other payments made during the year  
35 to each individual described in paragraph (6).

36 (8) In the case of an organization with respect to which an  
37 election under Section 23704.5 is effective for the taxable year,  
38 the following amounts for that organization for that taxable year:

39 (A) The lobbying expenditures (as defined in Section 4911(c)(1)  
40 of the Internal Revenue Code).

1 (B) The lobbying nontaxable amount (as defined in Section  
2 4911(c)(2) of the Internal Revenue Code).

3 (C) The grassroots expenditures (as defined in Section  
4 4911(c)(3) of the Internal Revenue Code).

5 (D) The grassroots nontaxable amount (as defined in Section  
6 4911(c)(4) of the Internal Revenue Code). For purposes of this  
7 paragraph, if Section 23740 applies to the organization for the  
8 taxable year, the organization shall furnish the amounts with respect  
9 to the affiliated group as well as with respect to the organization.

10 (9) Other information with respect to direct or indirect transfers  
11 to, and other direct or indirect transactions and relationships with,  
12 other organizations described in Sections 23701a to 23701w,  
13 inclusive (other than Sections 23701d, 23701k, and 23701t), as  
14 the Franchise Tax Board may require to prevent either of the  
15 following:

16 (A) Diversion of funds from the organization's exempt purpose.

17 (B) Misallocation of revenue or expense.

18 (10) Any other relevant information as the Franchise Tax Board  
19 may prescribe.

20 (11) Each controlling organization, within the meaning of  
21 Section 512(b)(13) of the Internal Revenue Code, which is subject  
22 to the requirements of subdivision (a) shall include on the return  
23 required under subdivision (a) all of the following information:

24 (A) Any interest, annuities, royalties, or rents received from  
25 each controlled entity, within the meaning of Section 512(b)(13)  
26 of the Internal Revenue Code.

27 (B) Any loans made to ~~each~~ *such* controlled entity.

28 (C) Any transfers of funds between each such controlling  
29 organization and each such controlled entity.

30 (12) (A) Any organization, the gross receipts of which in any  
31 taxable year result in the organization being referred to in clause  
32 (ii) of subparagraph (A) of paragraph (2) of subdivision (a), or  
33 subparagraph (B) of paragraph (3) of subdivision (a), shall do both  
34 of the following:

35 (i) Furnish annually, in electronic form, and at the time and in  
36 the manner as may be prescribed by the Franchise Tax Board, the  
37 legal name of the organization, any name under which the  
38 organization operates or does business, the organization's mailing  
39 address and the Web site address, if any, the organization's  
40 taxpayer identification number, the name and address of a principal

1 officer, and evidence of the continuing basis for the organization's  
2 exemption from the filing requirements under paragraph (1) of  
3 subdivision (a).

4 (ii) Upon termination of the existence of the organization, shall  
5 furnish notice of the termination.

6 (B) This paragraph shall apply to notices and returns with respect  
7 to annual periods beginning on or after January 1, 2007.

8 (13) (A) If an organization described in paragraph (1) of  
9 subdivision (a) or paragraph (12) of this subdivision fails to file  
10 an annual return or notice required under either subdivision (a) or  
11 paragraph (12) of this subdivision for three consecutive years, that  
12 organization's status as an organization exempt from tax under  
13 Section 23701 shall be considered revoked on and after the date  
14 set by the Franchise Tax Board for the filing of the third annual  
15 return or notice. The Franchise Tax Board shall publish and  
16 maintain a list of any organization for which the tax-exempt status  
17 is revoked.

18 (B) Any organization for which the tax-exempt status is revoked  
19 under subparagraph (A) must apply for reinstatement of that status  
20 regardless of whether that organization was originally required to  
21 make such an application.

22 (C) If, upon application for reinstatement of status as an  
23 organization exempt from tax under Section 23701, an organization  
24 described in subparagraph (A) can show to the satisfaction of the  
25 Franchise Tax Board evidence of reasonable cause for the failure  
26 described in that subparagraph, the organization's exempt status  
27 may, in the discretion of the Franchise Tax Board, be reinstated  
28 effective from the date of the revocation under that subparagraph.

29 (D) This paragraph shall apply to notices and returns with  
30 respect to annual periods beginning on or after January 1, ~~2007~~  
31 ~~2008~~.

32 (c) For the purposes of this part—

33 (1) In the case of a failure to file a return required under this  
34 section on the date and in the manner prescribed therefor  
35 (determined with regard to any extension of time for filing), unless  
36 it is shown that the failure is due to reasonable cause, there shall  
37 be paid (on notice and demand by the Franchise Tax Board and in  
38 the same manner as tax) by the exempt organization or trust failing  
39 so to file, five dollars (\$5) for each month or part thereof during  
40 which the failure continues, but the total amount imposed hereunder

1 on any organization for failure to file any return may not exceed  
2 forty dollars (\$40).

3 (2) The Franchise Tax Board may make written demand upon  
4 a private foundation failing to file under paragraph (1) of this  
5 subdivision specifying therein a reasonable future date by which  
6 the filing shall be made, and if the filing is not made on or before  
7 that date, and unless it is shown that failure so to file is due to  
8 reasonable cause, there shall be paid (on notice and demand by  
9 the Franchise Tax Board and in the same manner as tax) by the  
10 person failing so to file, in addition to the penalty prescribed in  
11 paragraph (1), a penalty of five dollars (\$5) each month or part  
12 thereof after the expiration of the time specified in the written  
13 demand during which the failure continues, but the total amount  
14 imposed hereunder on all persons for the failure to file shall not  
15 exceed twenty-five dollars (\$25). If more than one person is liable  
16 under this paragraph for a failure to file, all of those persons shall  
17 be jointly and severally liable with respect to the failure. The term  
18 “person” as used herein means any officer, director, trustee,  
19 employee, member, or other individual who is under a duty to  
20 perform the act in respect of which the violation occurs.

21 (3) This subdivision shall not apply with respect to any notice  
22 required under paragraph (12) of subdivision (b).

23 SEC. 41. Section 24305 of the Revenue and Taxation Code is  
24 amended to read:

25 24305. (a) Except as provided in subdivisions (b) and (c),  
26 amounts received under life insurance policies and contracts paid  
27 by reason of the death of the insured but if such amounts are held  
28 by the insurer under an agreement to pay interest thereon, the  
29 interest payments shall be included in gross income.

30 (b) Proceeds of flexible premium contracts payable by reason  
31 of death shall be excluded from gross income only in accordance  
32 with the provisions of Section 101(f) of the Internal Revenue Code.

33 (c) (1) In the case of an employer-owned life insurance contract,  
34 any amount received by reason of death of an insured shall be  
35 excluded from gross income only in accordance with the provisions  
36 of Section 101(j) of the Internal Revenue Code.

37 (2) Section 101(j) of the Internal Revenue Code, relating to  
38 treatment of certain employer-owned life insurance contracts, shall  
39 apply in accordance with the provisions of Section 863(d) of the  
40 Pension Protection Act of 2006 (Public Law 109-280), relating to

1 effective dates, except that the phrase “January 1, ~~2007~~ 2008”  
2 shall be substituted for the “date” *“the date* of the enactment of this  
3 Act” contained therein.

4 SEC. 42. Section 24329 is added to the Revenue and Taxation  
5 Code, to read:

6 24329. Section 139 of the Internal Revenue Code, relating to  
7 disaster relief payments, shall apply, except as otherwise provided.

8 SEC. 43. Section 24349 of the Revenue and Taxation Code is  
9 amended to read:

10 24349. (a) There shall be allowed as a depreciation deduction  
11 a reasonable allowance for the exhaustion, wear and tear (including  
12 a reasonable allowance for obsolescence)—

13 (1) Of property used in the trade or business; or

14 (2) Of property held for the production of income.

15 (b) Except as otherwise provided in subdivision (c), for taxable  
16 years ending after December 31, 1958, the term “reasonable  
17 allowance” as used in subdivision (a) shall include, but shall not  
18 be limited to, an allowance computed in accordance with  
19 regulations prescribed by the Franchise Tax Board, under any of  
20 the following methods:

21 (1) The straight-line method.

22 (2) The declining balance method, using a rate not exceeding  
23 twice the rate that would have been used had the annual allowance  
24 been computed under the method described in paragraph (1).

25 (3) The sum of the years-digits method.

26 (4) Any other consistent method productive of an annual  
27 allowance that, when added to all allowances for the period  
28 commencing with the taxpayer’s use of the property and including  
29 the taxable year, does not, during the first two-thirds of the useful  
30 life of the property, exceed the total of those allowances that would  
31 have been used had those allowances been computed under the  
32 method described in paragraph (2).

33 Nothing in this subdivision shall be construed to limit or reduce  
34 an allowance otherwise allowable under subdivision (a).

35 (c) Any grapevine replaced in a vineyard in California in a  
36 taxable year beginning on or after January 1, 1992, as a direct  
37 result of a phylloxera infestation in that vineyard, and any  
38 grapevine replaced in a vineyard in California in a taxable year  
39 beginning on or after January 1, 1997, as a direct result of Pierce’s  
40 disease in that vineyard, shall have a useful life of five years, except

1 that it shall have a class life of 10 years for purposes of depreciation  
2 under Section 168(g)(2) of the Internal Revenue Code where the  
3 taxpayer has made an election under Section 263A(d)(3) of the  
4 Internal Revenue Code not to capitalize costs of the infested  
5 vineyard. Every taxpayer claiming a deduction under this section  
6 with respect to a grapevine as described in this subdivision shall  
7 obtain a written certification from an independent state-certified  
8 integrated pest management adviser, or a state agricultural  
9 commissioner or adviser, that specifies that the replanting was  
10 necessary to restore a vineyard infested with phylloxera or Pierce's  
11 disease. The taxpayer shall retain the certification for future audit  
12 purposes.

13 (d) For purposes of this part, the deduction for property leased  
14 to governments and other tax-exempt entities, as defined in Section  
15 168(h) of the Internal Revenue Code, shall be limited to the amount  
16 determined under Section 168(g) of the Internal Revenue Code,  
17 relating to alternative depreciation system for certain property.

18 (e) (1) In the case of any building erected or improvements  
19 made on leased property, if the building or improvement is property  
20 to which this section applies, the depreciation deduction shall be  
21 determined under the provisions of this section.

22 (2) An improvement shall be treated for purposes of determining  
23 gain or loss under this part as disposed of by the lessor when so  
24 disposed of or abandoned if both of the following occur:

25 (A) The improvement is made by the lessor of leased property  
26 for the lessee of that property.

27 (B) The improvement is irrevocably disposed of or abandoned  
28 by the lessor at the termination of the lease by the lessee.

29 This subdivision shall not apply to any property to which Section  
30 168 of the Internal Revenue Code does not apply for federal  
31 purposes by reason of Section 168(f) of the Internal Revenue Code.  
32 Any election made under Section 168(f)(1) of the Internal Revenue  
33 Code for federal purposes with respect to that property shall be  
34 treated as a binding election for state purposes under this  
35 subdivision with respect to that same property and no separate  
36 election under subdivision (e) of Section 23051.5 with respect to  
37 that property shall be allowed.

38 (3) (A) In determining a lease term, both of the following shall  
39 apply:

40 (i) There shall be taken into account options to renew.

1 (ii) Two or more successive leases which are part of the same  
2 transaction (or a series of related transactions) with respect to the  
3 same or substantially similar property shall be treated as one lease.

4 (B) For purposes of clause (i) of subparagraph (A), in the case  
5 of nonresidential real property or residential rental property, there  
6 shall not be taken into account any option to renew at fair market  
7 value determined at the time of renewal.

8 (f) (1) Section 167(g) of the Internal Revenue Code, relating  
9 to depreciation under income forecast method, shall apply except  
10 as otherwise provided.

11 (2) Section 167(g)(2)(C) of the Internal Revenue Code is  
12 modified by substituting “Section 19521” in lieu of “Section  
13 460(b)(7)” of the Internal Revenue Code.

14 (3) Section 167(g)(5)(D) of the Internal Revenue Code is  
15 modified by substituting “Part 10.2 (commencing with Section  
16 18401) (other than Article 2 (commencing with Section 19021)  
17 and Sections 19142 to 19150, inclusive)” in lieu of “Subtitle F  
18 (other than Sections 6654 and 6655).”

19 (4) Section 167(g)(5)(E) of the Internal Revenue Code, relating  
20 to treatment of distribution costs, shall not apply.

21 (5) Section 167(g)(7) of the Internal Revenue Code, relating to  
22 treatment of participations and residuals, shall not apply.

23 (g) (1) Section 167(h) of the Internal Revenue Code, relating  
24 to amortization of geological and geophysical expenditures, shall  
25 apply, except as otherwise provided.

26 (2) The amendments made to this section by the act adding this  
27 subdivision shall apply to amounts paid or incurred in taxable years  
28 beginning on or after January 1, ~~2007~~ 2008.

29 SEC. 44. Section 24357 of the Revenue and Taxation Code is  
30 amended to read:

31 24357. (a) There shall be allowed as a deduction any charitable  
32 contribution (as defined in Section 24359) payment of which is  
33 made within the taxable year. A charitable contribution shall be  
34 allowable as a deduction only if verified under regulations  
35 prescribed by the Franchise Tax Board.

36 (b) (1) In the case of a corporation reporting its income on the  
37 accrual basis, the corporation may elect to treat the contribution  
38 as paid during that taxable year if both of the following occur:

39 (A) The board of directors authorizes a charitable contribution  
40 during the taxable year.

1 (B) Payment of the contribution is made after the close of that  
2 taxable year and on or before the 15th day of the third month  
3 following the close of the taxable year.

4 (2) The election allowed by paragraph (1) may be made only  
5 at the time of the filing of the return for the taxable year, and shall  
6 be signified in the manner as the Franchise Tax Board shall by  
7 regulations prescribe.

8 (c) For purposes of this section, payment of a charitable  
9 contribution that consists of a future interest in tangible personal  
10 property shall be treated as made only when all intervening interests  
11 in, and rights to the actual possession or enjoyment of, the property  
12 have expired or are held by persons other than the taxpayer or  
13 those standing in a relationship to the taxpayer described in Section  
14 24428. For purposes of the preceding sentence, a fixture which is  
15 intended to be severed from the real property shall be treated as  
16 tangible personal property.

17 (d) No deduction shall be allowed under this section for traveling  
18 expenses (including amounts expended for meals and lodging)  
19 while away from home, whether paid directly or by reimbursement,  
20 unless there is no significant element of personal pleasure,  
21 recreation, or vacation in that travel.

22 (e) (1) Section 170(f)(8) of the Internal Revenue Code, relating  
23 to substantiation requirement for certain contributions, shall apply,  
24 except as otherwise provided.

25 (2) No deduction shall be denied under Section 170(f)(8) of the  
26 Internal Revenue Code, relating to substantiation requirement for  
27 certain contributions, upon a showing that the requirements in  
28 Section 170(f)(8) of the Internal Revenue Code have been met  
29 with respect to that contribution for federal purposes.

30 (f) Section 170(f)(9) of the Internal Revenue Code, relating to  
31 the denial of the deduction for lobbying activities shall apply,  
32 except as otherwise provided.

33 (g) (1) Notwithstanding any other provision of law to the  
34 contrary, for purposes of this section and Section 24341, Section  
35 170 of the Internal Revenue Code, relating to charitable  
36 contributions and gifts, shall be applied to allow a taxpayer to elect  
37 to treat any contribution described in paragraph (2) made in January  
38 2005, as if that contribution was made on December 31, 2004, and  
39 not in January 2005.

1 (2) A contribution is described in this paragraph if that  
2 contribution is a cash contribution made for the relief of victims  
3 in areas affected by the December 26, 2004, Indian Ocean tsunami  
4 for which a charitable contribution deduction is allowable under  
5 this section.

6 (h) (1) Section 170(f)(11)(E) of the Internal Revenue Code,  
7 relating to a qualified appraisal and appraiser, shall apply, except  
8 as otherwise provided.

9 (2) This subdivision shall apply to appraisals prepared with  
10 respect to returns or submissions filed on or after January 1, ~~2007~~  
11 2008.

12 (i) (1) Section 170(f)(16) of the Internal Revenue Code, relating  
13 to contributions of clothing and household items, shall apply,  
14 except as otherwise provided.

15 (2) This subdivision shall apply to contributions made on or  
16 after January 1, ~~2007~~ 2008.

17 (j) (1) Section 170(f)(17) of the Internal Revenue Code, relating  
18 to recordkeeping, shall apply, except as otherwise provided.

19 (2) This subdivision shall apply to contributions made in taxable  
20 years beginning on or after January 1, ~~2007~~ 2008.

21 (k) (1) Section 170(o) of the Internal Revenue Code, relating  
22 to special rules for fractional gifts, shall apply, except as otherwise  
23 provided.

24 (2) This subdivision shall apply to contributions made on or  
25 after January 1, ~~2007~~ 2008.

26 SEC. 45. Section 24357.1 of the Revenue and Taxation Code  
27 is amended to read:

28 24357.1. (a) The amount of any charitable contribution of  
29 property otherwise taken into account under Section 24357 shall  
30 be reduced by the amount of gain that would have been realized  
31 if the property contributed had been sold by the taxpayer at its fair  
32 market value (determined at the time of that contribution).

33 (b) For purposes of subdivision (a), in the case of a charitable  
34 contribution of less than the taxpayer's entire interest in the  
35 property contributed, the taxpayer's adjusted basis in that property  
36 shall be allocated between the interest contributed and any interest  
37 not contributed in accordance with regulations prescribed by the  
38 Franchise Tax Board.

1 (c) The provisions of subdivision (a) shall apply in the case of  
2 a charitable contribution of tangible personal property if either of  
3 the following conditions is satisfied:

4 (1) The use by the donee is unrelated to the purpose or function  
5 constituting the basis for its exemption under Section 501 of the  
6 Internal Revenue Code or Section 23701, or, in the case of a  
7 governmental unit, to any purpose or function described in Section  
8 24359.

9 (2) The tangible personal property is applicable property, as  
10 defined in subparagraph (B) of paragraph (2) of subdivision (d),  
11 that is sold, exchanged, or otherwise disposed of by the donee  
12 before the last day of the taxable year in which the contribution  
13 was made and with respect to which the donee has not made a  
14 certification in accordance with paragraph (3) of subdivision (d).

15 (d) (1) In the case of an applicable disposition of applicable  
16 property, there shall be included in the income of the donor of that  
17 property for the taxable year of the donor in which the applicable  
18 disposition occurs an amount equal to the excess, if any, of the  
19 following amount:

20 (A) The amount of the deduction allowed to the donor under  
21 Section 24357 with respect to that property, over

22 (B) The donor's basis in that property at the time that property  
23 was contributed.

24 (2) For purposes of this subdivision, both of the following  
25 definitions apply:

26 (A) "Applicable disposition" means any sale, exchange, or other  
27 disposition by the donee of applicable property after the last day  
28 of the taxable year of the donor in which that property was  
29 contributed, and before the last day of the three-year period  
30 beginning on the date of the contribution of that property, unless  
31 the donee makes a certification in accordance with paragraph (3).

32 (B) "Applicable property" means charitable deduction property,  
33 as defined in Section 6050L(a)(2)(A) of the Internal Revenue Code,  
34 that is tangible personal property, the use of which identified by  
35 the donee as related to the purpose or function constituting the  
36 basis of the donee's exemption under Section 501 of the Internal  
37 Revenue Code or Section 23701, and for which a deduction in  
38 excess of the donor's basis is allowed.

39 (3) A certification meets the requirements of this paragraph if  
40 it is a written statement, which is signed under penalty of perjury

1 by an officer of the donee organization, that meets either of the  
 2 following conditions:

3 (A) Certifies that the use of the property by the donee was  
 4 related to the purpose or function constituting the basis for the  
 5 donee’s exemption under Section 501 of the Internal Revenue  
 6 Code or Section 23701 and describes how the property was used  
 7 and how that use furthered that purpose or function.

8 (B) States the intended use of the property by the donee at the  
 9 time of the contribution and certifies that the intended use has  
 10 become impossible or infeasible to implement.

11 (e) (1) For purposes of Section 24357 and subdivision (a), and  
 12 notwithstanding Section 24912, in the case of a charitable  
 13 contribution of taxidermy property that is made by the person who  
 14 prepared, stuffed, or mounted the property, or by any person who  
 15 paid or incurred the cost of such preparation, stuffing, or mounting,  
 16 only the cost of the preparing, stuffing, or mounting shall be  
 17 included in the basis of that property.

18 (2) For purposes of this section, the term “taxidermy property”  
 19 means any work of art that satisfies all of the following  
 20 requirements:

21 (A) Is the reproduction or preservation of an animal, in whole  
 22 or in part.

23 (B) Is prepared, stuffed, or mounted for purposes of recreating  
 24 one or more characteristics of the animal.

25 (C) Contains a part of the body of the dead animal.

26 (f) The amendments made to this section by the act adding this  
 27 subdivision shall apply to contributions made on or after January  
 28 1, ~~2007~~ 2008, without regard to taxable year.

29 SEC. 46. Section 24357.7 of the Revenue and Taxation Code  
 30 is amended to read:

31 24357.7. (a) (1) For purposes of paragraph (3) of subdivision  
 32 (b) of Section 24357.2, the term “qualified conservation  
 33 contribution” means a contribution—

34 (A) Of a qualified real property interest,

35 (B) To a qualified organization,

36 (C) Exclusively for conservation purposes.

37 (2) For purposes of this subdivision, the term “qualified real  
 38 property interest” means any of the following interests in real  
 39 property:

- 1 (i) The entire interest of the donor other than a qualified mineral  
2 interest.
- 3 (ii) A remainder interest.
- 4 (iii) A restriction (granted in perpetuity) on the use which may  
5 be made of the real property.
- 6 (b) For purposes of subdivision (a), the term “qualified  
7 organization” means an organization which:
- 8 (1) Is described in subdivision (a) or (b) of Section 24359, or  
9 (2) Is described in Section 23701(d), and—
- 10 (A) Meets the requirements of Section 509(a)(2) of the Internal  
11 Revenue Code, or
- 12 (B) Meets the requirements of Section 509(a)(3) of the Internal  
13 Revenue Code and is controlled by an organization described in  
14 paragraph (1) or in subparagraph (A).
- 15 (c) For purposes of this section, the term “conservation purpose”  
16 means any of the following:
- 17 (1) The preservation of land areas for outdoor recreation by, or  
18 the education of, the general public.
- 19 (2) The protection of a relatively natural habitat of fish, wildlife,  
20 or plants, or similar ecosystem.
- 21 (3) The preservation of open space (including farmland and  
22 forest land) where that preservation is for any of the following:
- 23 (A) For the scenic enjoyment of the general public.
- 24 (B) Pursuant to a clearly delineated federal, state, or local  
25 governmental conservation policy, and will yield a significant  
26 public benefit.
- 27 (C) The preservation of a historically important land area or a  
28 certified historic structure.
- 29 (d) In the case of any contribution of a qualified real property  
30 interest, which is a restriction with respect to the exterior of a  
31 building described in paragraph (2) of subdivision (e), that  
32 contribution shall not be considered to be exclusively for  
33 conservation purposes unless all of the following conditions are  
34 met:
- 35 (1) That interest includes a restriction that preserves the entire  
36 exterior of the building, including the front, sides, rear, and height  
37 of the building, and prohibits any change in the exterior of the  
38 building which is inconsistent with the historical character of that  
39 exterior.

1 (2) The donor and donee enter into a written agreement  
2 certifying, under penalty of perjury, that the donee is a qualified  
3 organization, as defined in subdivision (b), with a purpose of  
4 environmental protection, land conservation, open-space  
5 preservation, and has the resources to manage and enforce the  
6 restriction and a commitment to do so.

7 (3) In the case of any contribution made in a taxable year  
8 beginning on or after January 1, ~~2007~~ 2008, the taxpayer includes  
9 with the taxpayer's return for the taxable year of the contribution  
10 all of the following information:

11 (A) A qualified appraisal, within the meaning of Section  
12 170(f)(11)(E) of the Internal Revenue Code, of the qualified  
13 property interest.

14 (B) Photographs of the entire exterior of the building.

15 (C) A description of all restrictions on the development of the  
16 building.

17 (e) The term "certified historic structure" means either of the  
18 following:

19 (1) Any building, structure, or land area that is listed in the  
20 National Register.

21 (2) (A) Any building that is located in a registered historic  
22 district (as defined in Section 47(c)(3)(B)) of the Internal Revenue  
23 Code and is certified by the Secretary of the Interior to the secretary  
24 as being of historic significance to the district.

25 (B) A building, structure, or land area satisfies the requirements  
26 of paragraph (A) if it satisfies those requirements either at the time  
27 of the transfer or on the due date (including extensions) for filing  
28 the transferor's return under this part for the taxable year in which  
29 the transfer is made.

30 (f) For purposes of this section:

31 (1) A contribution shall not be treated as exclusively for  
32 conservation purposes unless the conservation purpose is protected  
33 in perpetuity.

34 (2) (A) Except as provided in subparagraph (B), in the case of  
35 a contribution of any interest where there is a retention of a  
36 qualified mineral interest, this subdivision shall not be treated as  
37 met if at any time there may be extraction or removal of minerals  
38 by any surface mining method.

39 (B) With respect to any contribution of property in which the  
40 ownership of the surface estate and mineral interests has been and

1 remains separated, paragraph (1) shall be treated as met if the  
2 probability of surface mining occurring on that property is so  
3 remote as to be negligible.

4 (g) For purposes of this section, the term “qualified mineral  
5 interest” means either of the following:

6 (1) Subsurface oil, gas, or other minerals.

7 (2) The right to access to those minerals.

8 (h) The amendments made to this section by the act adding this  
9 subdivision shall apply to contributions made on or after January  
10 1, 2007 2008.

11 ~~SEC. 47. Section 24357.15 is added to the Revenue and  
12 Taxation Code, to read:~~

13 ~~24357.15. (a) In the case of a qualified food inventory  
14 contribution, the amount otherwise allowed as a deduction under  
15 Section 24357 shall be decreased by that amount of the reduction  
16 provided by Section 24357.1, which shall be no greater than the  
17 sum of the following:~~

18 ~~(1) One-half of the amount computed pursuant to Section  
19 24357.1, computed without regard to this section.~~

20 ~~(2) The amount, if any, by which the charitable contribution  
21 deduction under Section 24357 for any qualified food inventory  
22 contribution, computed by taking into account the amount  
23 determined by paragraph (1), but without regard to this paragraph,  
24 exceeds twice the basis of that property.~~

25 ~~(b) For purposes of this section, “qualified food inventory  
26 contribution” means a charitable contribution by a corporation of  
27 tangible personal property described in paragraph (1) of Section  
28 1221 of the Internal Revenue Code, that is food from any trade or  
29 business of the taxpayer but only if all of the following conditions  
30 are met:~~

31 ~~(1) The contribution is to an organization which is described in  
32 Section 23701d and which is exempt under Section 23701, other  
33 than a private foundation, as defined in Section 23709, which is  
34 not an operating foundation, as defined in Section 4942(j)(3) of  
35 the Internal Revenue Code.~~

36 ~~(2) The use of the property by the donee is related to the purpose  
37 or function constituting the basis for its exemption under Section  
38 23701 and the property is to be used by the donee solely for the  
39 care of the ill, the needy, or infants.~~

1     ~~(3) The property is not transferred by the donee in exchange for~~  
2     ~~money, other property, or services.~~

3     ~~(4) The taxpayer receives from the donee a written statement~~  
4     ~~representing that its use and disposition of the property will be in~~  
5     ~~accordance with the provisions of paragraphs (2) and (3).~~

6     ~~(5) In the case where the property is subject to regulation under~~  
7     ~~the Federal Food, Drug, and Cosmetic Act, as amended, that~~  
8     ~~property must fully satisfy the applicable requirements of that act~~  
9     ~~and regulations promulgated thereunder on the date of the transfer~~  
10    ~~and for 180 days prior thereto.~~

11    ~~(6) The property must only consist of food that is apparently~~  
12    ~~wholesome food.~~

13    ~~(7) The contribution is made on or after January 1, 2007, and~~  
14    ~~on or before December 31, 2007.~~

15    ~~(e) In the case of a taxpayer, other than a “C” corporation, the~~  
16    ~~aggregate amount of those contributions for any taxable year which~~  
17    ~~may be taken into account under Section 24357 shall not exceed~~  
18    ~~10 percent of the taxpayer’s aggregate net income for that taxable~~  
19    ~~year from all trades or businesses from which those contributions~~  
20    ~~were made for that taxable year, computed without regard to this~~  
21    ~~section.~~

22    ~~(d) For purposes of this section, the term “apparently wholesome~~  
23    ~~food” has the meaning given to that term by section 22(b)(2) of~~  
24    ~~the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C.~~  
25    ~~1791(B)(2)), as in effect on August 28, 2005.~~

26    ~~SEC. 48. Section 24357.16 is added to the Revenue and~~  
27    ~~Taxation Code, to read:~~

28    ~~24357.16. (a) In the case of a qualified book inventory~~  
29    ~~contribution, the amount otherwise allowed as a deduction under~~  
30    ~~Section 24357 shall be decreased by that amount of the reduction~~  
31    ~~provided by Section 24357.1, which shall be no greater than the~~  
32    ~~sum of the following:~~

33    ~~(1) One-half of the amount computed pursuant to Section~~  
34    ~~24357.1, computed without regard to this section.~~

35    ~~(2) The amount, if any, by which the charitable contribution~~  
36    ~~deduction under Section 24357 for any qualified book inventory~~  
37    ~~contribution, computed by taking into account the amount~~  
38    ~~determined by paragraph (1), but without regard to this paragraph,~~  
39    ~~exceeds twice the basis of that property.~~

1 ~~(b) For purposes of this section, “qualified book inventory~~  
2 ~~contribution” means a charitable contribution by a corporation,~~  
3 ~~other than a corporation which is an “S” corporation, of tangible~~  
4 ~~personal property described in paragraph (1) of Section 1221 of~~  
5 ~~the Internal Revenue Code, but only if all of the following~~  
6 ~~conditions are met:~~

7 ~~(1) The contribution is a charitable contribution of books to a~~  
8 ~~public school which is an educational organization described in~~  
9 ~~Section 170(b)(1)(A)(ii) of the Internal Revenue Code and which~~  
10 ~~provides elementary education or secondary education,~~  
11 ~~kindergarten and grades 1 to 12, inclusive, in California.~~

12 ~~(2) The use of the property by the donee is related to the purpose~~  
13 ~~or function constituting the basis for its exemption under Section~~  
14 ~~23701.~~

15 ~~(3) The property is not transferred by the donee in exchange for~~  
16 ~~money, other property, or services.~~

17 ~~(4) The taxpayer receives from the donee a written statement~~  
18 ~~representing that its use and disposition of the property will be in~~  
19 ~~accordance with the provisions of paragraphs (1) and (2).~~

20 ~~(5) This section shall not apply to any contribution unless, in~~  
21 ~~addition to the certifications required by paragraph (4), the donee~~  
22 ~~certifies in writing all of the following:~~

23 ~~(A) The books are suitable, in terms of currency, content, and~~  
24 ~~quantity, for use in the donee’s educational programs.~~

25 ~~(B) The donee will use the books in its educational programs.~~

26 ~~(6) The contribution is made on or after January 1, 2007, and~~  
27 ~~on or before December 31, 2007.~~

28 ~~SEC. 49. Section 24358 of the Revenue and Taxation Code is~~  
29 ~~amended to read:~~

30 ~~24358. (a) In the case of a corporation, the total deductions~~  
31 ~~under Section 24357 for any taxable year, other than for~~  
32 ~~contributions to which subdivision (b) applies, shall not exceed~~  
33 ~~10 percent of the taxpayer’s net income computed without regard~~  
34 ~~to any of the following:~~

35 ~~(1) Subdivision (e) of Section 23802, relating to a deduction~~  
36 ~~for built-in gains and passive investment income.~~

37 ~~(2) Sections 24357 to 24359, inclusive, relating to the deduction~~  
38 ~~for contributions.~~

1 ~~(3) Article 2 (commencing with Section 24401) of Chapter 7~~  
 2 ~~(except Sections 24407 to 24409, inclusive, relating to~~  
 3 ~~organizational expenses).~~

4 ~~(b) (1) Section 170(b)(2)(B) of the Internal Revenue Code,~~  
 5 ~~relating to qualified conservation contributions by certain corporate~~  
 6 ~~farmers and ranchers, shall apply, except as otherwise provided.~~

7 ~~(2) The phrase “made on or after January 1, 2007” shall be~~  
 8 ~~substituted for “made after the date of the enactment of this~~  
 9 ~~subparagraph” in Section 170(b)(2)(B)(i)(II) of the Internal~~  
 10 ~~Revenue Code.~~

11 ~~(e) Section 170(d)(2) of the Internal Revenue Code, relating to~~  
 12 ~~carryovers of excess contributions, shall apply, except as otherwise~~  
 13 ~~provided.~~

14 *SEC. 49.3. Section 24411 of the Revenue and Taxation Code*  
 15 *is amended to read:*

16 24411. (a) For purposes of those taxpayers electing to compute  
 17 income under Section 25110, ~~to the extent not otherwise~~  
 18 *allowed as a deduction or eliminated from income, all of the*  
 19 *following shall apply:*

20 (1) *One hundred percent of the qualifying dividends described*  
 21 *in subdivision (e) and 75 (d).*

22 (2) *Twenty-seven percent of qualifying dividends described in*  
 23 *Section 25117.*

24 (3) *Seventy-five percent of other qualifying dividends to the*  
 25 *extent not otherwise allowed as a deduction or eliminated from*  
 26 *income. “Qualifying, other than those referred to in paragraphs*  
 27 *(1) or (2).*

28 (b) *“Qualifying dividends” means those received by the*  
 29 *water’s-edge group from corporations if both of the following*  
 30 *conditions are satisfied:*

31 (1) *The average of the property, payroll, and sales factors within*  
 32 *the United States for the corporation is less than 20 percent.*

33 (2) *More than 50 percent of the total combined voting power*  
 34 *of all classes of stock entitled to vote is owned directly or indirectly*  
 35 *by the water’s-edge group.*

36 ~~(b)~~

37 (c) *The water’s-edge group consists of corporations whose*  
 38 *income and apportionment factors are taken into account pursuant*  
 39 *to Section 25110.*

40 ~~(e)~~

1 (d) Dividends derived from a construction project, the location  
2 of which is not subject to the taxpayer's control.

3 For purposes of this subdivision:

4 (1) "Construction project" means any activity which meets the  
5 following requirements:

6 (A) Is undertaken for any entity, including a governmental  
7 entity, which is not affiliated with the taxpayer.

8 (B) The majority of its cost of performance is attributable to an  
9 addition to real property or an alteration of land or any  
10 improvement thereto as those terms are utilized for purposes of  
11 this code.

12 "Construction project" does not include the operation, rental,  
13 leasing, or depletion of real property, land, or any improvement  
14 thereto.

15 (2) "Location of which is not subject to the taxpayer's control"  
16 means that the place at which the majority of the construction takes  
17 place results from the nature or character of the construction project  
18 and not as a result of the terms of the contract or agreement  
19 governing the construction project.

20 SEC. 50. Section 24462 is added to the Revenue and Taxation  
21 Code, to read:

22 24462. (a) Section 355(b) of the Internal Revenue Code,  
23 relating to special rule with respect to the active business  
24 requirement under Section 355(b) of the Internal Revenue Code,  
25 is modified as follows:

26 (1) The phrase "January 1, ~~2007,~~ 2008," shall be substituted  
27 for "the date of the enactment of this paragraph" in Section  
28 355(b)(3)(A) of the Internal Revenue Code.

29 (2) The phrase "January 1, ~~2007,~~ 2008," shall be substituted  
30 for "the date of the enactment of this paragraph" in Section  
31 355(b)(3)(C)(i) of the Internal Revenue Code.

32 (3) The phrase "January 1, ~~2007,~~ 2008," shall be substituted  
33 for "the date of the enactment of this paragraph" in Section  
34 355(b)(3)(D) of the Internal Revenue Code.

35 (b) Section 355(g) of the Internal Revenue Code, relating to  
36 sections not applying to distributions involving disqualified  
37 investment corporations, is modified by substituting the phrase  
38 "January 1, ~~2007,~~ 2008," for "the date of the enactment of this  
39 subsection" in Section 355(g)(2)(A)(i) of the Internal Revenue  
40 Code.

1 (c) The provisions of Section 507(b) of Public Law 109-222,  
2 relating to effective dates, shall apply and are modified as follows:

3 (1) The phrase “January 1, ~~2007,~~ 2008,” shall be substituted  
4 for “the date of the enactment of this Act” in Section 507(b)(1) of  
5 Public Law 109-222.

6 (2) The phrase “January 1, ~~2007,~~ 2008,” shall be substituted  
7 for “such date of enactment” in Section 507(b)(2)(A) of Public  
8 Law 109-222.

9 (d) The amendments made by the act adding this subdivision  
10 shall apply as of the dates specified in this section, without regard  
11 to taxable year.

12 SEC. 51. Section 24949.5 of the Revenue and Taxation Code  
13 is amended to read:

14 24949.5. (a) For purposes of Sections 24943 through 24946,  
15 Section 1033(h) of the Internal Revenue Code, relating to special  
16 rules for property damaged by presidentially declared disasters,  
17 shall apply, except as otherwise provided.

18 (b) For purposes of Sections 24943 through 24946, Section  
19 1033(i) of the Internal Revenue Code, relating to nonrecognition  
20 not to apply if corporation acquires replacement property from  
21 related person, shall apply, except as otherwise provided.

22 (c) For purposes of Sections 24943 through 24946, Section  
23 1033(j) of the Internal Revenue Code, relating to sales or exchanges  
24 to implement microwave relocation policy, shall apply, except as  
25 otherwise provided.

26 (d) For purposes of Sections 24943 to 24946, inclusive, Section  
27 1033(k) of the Internal Revenue Code, relating to sales or  
28 exchanges under certain hazard mitigation programs, shall apply,  
29 except as otherwise provided.

30 SEC. 52. Section 24950.5 is added to the Revenue and Taxation  
31 Code, to read:

32 24950.5. The amendments made by Section 844 of the Pension  
33 Protection Act of 2006 (Public Law 109-280) to Section 1035 of  
34 the Internal Revenue Code shall not apply.

35 SEC. 53. Section 24981 of the Revenue and Taxation Code is  
36 repealed.

37 SEC. 54. Section 24988 of the Revenue and Taxation Code is  
38 repealed.

39 SEC. 55. Section 24990.6 of the Revenue and Taxation Code  
40 is amended to read:

1 24990.6. (a) Section 1245(a)(2)(C) of the Internal Revenue  
2 Code, relating to certain deductions treated as amortization, is  
3 modified to also refer to Sections 24356.2, 24356.3, and 24356.4.

4 (b) Section 1245(b)(8) of the Internal Revenue Code, relating  
5 to the disposition of amortizable Section 197 intangibles, shall  
6 apply to dispositions of property on or after January 1, ~~2007~~ 2008.

7 SEC. 56. Section 24990.8 is added to the Revenue and Taxation  
8 Code, to read:

9 24990.8. For taxable years beginning on or after January 1,  
10 ~~2007~~ 2008, specific reference to Sections 1223(4) to (16), inclusive,  
11 of the Internal Revenue Code in this part shall instead be treated  
12 as a reference to Sections 1223(3) to (15), inclusive, of the Internal  
13 Revenue Code, respectively.

14 SEC. 57. Section 24993 of the Revenue and Taxation Code is  
15 amended to read:

16 24993. (a) Section 7872 of the Internal Revenue Code, relating  
17 to the treatment of loans with below market interest rates, shall  
18 apply, except as otherwise provided.

19 (b) Section 7872(h) of the Internal Revenue Code, relating to  
20 the exception for loans to qualified continuing care facilities, shall  
21 apply to calendar years beginning on or after January 1, ~~2007~~ 2008,  
22 with respect to loans made before, on, or after that date.

23 *SEC. 57.3. Section 25110 of the Revenue and Taxation Code,*  
24 *as added by Section 2 of Chapter 22 of the Statutes of 2006, is*  
25 *amended to read:*

26 25110. (a) Notwithstanding Section 25101, a qualified  
27 taxpayer, as defined in paragraph (2) of subdivision (b), that is  
28 subject to the tax imposed under this part, may elect to determine  
29 its income derived from or attributable to sources within this state  
30 pursuant to a water's-edge election in accordance with the  
31 provisions of this part, as modified by this article. A taxpayer, that  
32 makes a water's-edge election on or after January 1, 2006, shall  
33 take into account that portion of its own income and apportionment  
34 factors and the income and apportionment factors of its affiliated  
35 entities to the extent provided below:

36 (1) The entire income and apportionment factors of any of the  
37 following corporations:

38 (A) Domestic international sales corporations, as described in  
39 Sections 991 to 994, inclusive, of the Internal Revenue Code and

1 foreign sales corporations as described in Sections 921 to 927,  
2 inclusive, of the Internal Revenue Code.

3 (B) Any corporation (other than a bank), regardless of the place  
4 where it is incorporated if the average of its property, payroll, and  
5 sales factors within the United States is 20 percent or more.

6 (C) Corporations that are incorporated in the United States,  
7 excluding corporations making an election pursuant to Sections  
8 931 to 936, inclusive, of the Internal Revenue Code.

9 (D) Export trade corporations, as described in Sections 970 to  
10 972, inclusive, of the Internal Revenue Code.

11 (2) ~~(A)~~—With respect to a corporation that is not described in  
12 subparagraphs (A), (B), (C), and (D) of paragraph (1), ~~as provided~~  
13 ~~in either one or both of the following clauses:~~

14 ~~(i) The *the* income and apportionment factors of that corporation~~  
15 ~~to the extent of its income derived from or attributable to sources~~  
16 ~~within the United States and its factors assignable to a location~~  
17 ~~within the United States in accordance with paragraph (3) of~~  
18 ~~subdivision (b). Income of that corporation derived from or~~  
19 ~~attributable to sources within the United States as determined by~~  
20 ~~federal income tax laws shall be limited to, and determined from,~~  
21 ~~the books of account maintained by the corporation with respect~~  
22 ~~to its activities conducted within the United States.~~

23 ~~(ii) The income and apportionment factors of that corporation~~  
24 ~~that is a “controlled foreign corporation,” as defined in Section~~  
25 ~~957 of the Internal Revenue Code, to the extent determined by~~  
26 ~~multiplying the income and apportionment factors of that~~  
27 ~~corporation without application of this subparagraph by a fraction~~  
28 ~~not to exceed one, the numerator of which is the “Subpart F~~  
29 ~~income” of that corporation for that taxable year and the~~  
30 ~~denominator of which is the “earnings and profits” of that~~  
31 ~~corporation for that taxable year.~~

32 (B) For purposes of this paragraph, both of the following apply:

33 (i) “Subpart F income” means “Subpart F income” as defined  
34 in Section 952 of the Internal Revenue Code.

35 (ii) “Earnings and profits” means “earnings and profits” as  
36 described in Section 964 of the Internal Revenue Code.

37 (3) The income and apportionment factors of the corporations  
38 described in this subdivision shall be taken into account only to  
39 the extent that they would have been taken into account had no  
40 election under this section been made.

1 ~~(4) The Franchise Tax Board shall prescribe regulations to~~  
2 ~~coordinate implementation of subparagraph (A) of paragraph (2)~~  
3 ~~to prevent multiple inclusion or exclusion of income and factors~~  
4 ~~in situations where the same item of income is described in both~~  
5 ~~clauses.~~

6 (b) For purposes of this article and Section 24411, all of the  
7 following definitions apply:

8 (1) An “affiliated corporation” means a corporation that is a  
9 member of a commonly controlled group as defined in Section  
10 25105.

11 (2) A “qualified taxpayer” means a corporation that does both  
12 of the following:

13 (A) Files with the state tax return, on which the water’s-edge  
14 election is made, a consent to the taking of depositions, at the time  
15 and place most reasonably convenient to all parties, from key  
16 domestic corporate individuals and to the acceptance of subpoenas  
17 duces tecum requiring reasonable production of documents to the  
18 Franchise Tax Board, as provided in Section 19504, by the State  
19 Board of Equalization, as provided in Section 5005 of Title 18 of  
20 the California Code of Regulations, or by the courts of this state,  
21 as provided in Chapter 2 (commencing with Section 1985) of Title  
22 3 of Part 4 of, and Chapter 9 (commencing with Section 2025.010)  
23 of Title 4 of Part 4 of, the Code of Civil Procedure. The consent  
24 relates to issues of jurisdiction and service and does not waive any  
25 defenses that a taxpayer may otherwise have. The consent shall  
26 remain in effect as long as the water’s-edge election is in effect,  
27 and shall be limited to providing that information necessary to  
28 review or adjust income or deductions in a manner authorized by  
29 Section 482, 861, Subpart F of Part III of Subchapter N, or similar  
30 provisions, of the Internal Revenue Code, together with the  
31 regulations adopted pursuant to those provisions, and for the  
32 conduct of an investigation with respect to any unitary business  
33 in which the taxpayer may be involved.

34 (B) Agrees that, for purposes of this article, dividends received  
35 by any corporation whose income and apportionment factors are  
36 taken into account pursuant to subdivision (a) from either of the  
37 following are functionally related dividends and shall be presumed  
38 to be business income:

1 (i) A corporation of which more than 50 percent of the voting  
2 stock is owned, directly or indirectly, by members of the unitary  
3 group and which is engaged in the same general line of business.

4 (ii) Any corporation that is either a significant source of supply  
5 for the unitary business or a significant purchaser of the output of  
6 the unitary business, or that sells a significant part of its output or  
7 obtains a significant part of its raw materials or input from the  
8 unitary business. “Significant,” as used in this subparagraph, means  
9 an amount of 15 percent or more of either input or output.

10 All other dividends shall be classified as business or nonbusiness  
11 income without regard to this subparagraph.

12 (3) The definitions and locations of property, payroll, and sales  
13 shall be determined under the laws and regulations that set forth  
14 the apportionment formulas used by the individual states to assign  
15 net income subject to taxes on, or measured by, net income in that  
16 state. If a state does not impose a tax on, or measured by, net  
17 income or does not have laws or regulations with respect to the  
18 assignment of property, payroll, and sales, the laws and regulations  
19 provided in Article 2 (commencing with Section 25120) shall  
20 apply.

21 Sales shall be considered to be made to a state only if the  
22 corporation making the sale may otherwise be subject to a tax on,  
23 or measured by, net income under the Constitution or laws of the  
24 United States, and shall not include sales made to a corporation  
25 whose income and apportionment factors are taken into account  
26 pursuant to subdivision (a) in determining the amount of income  
27 of the taxpayer derived from or attributable to sources within this  
28 state.

29 (4) “The United States” means the 50 states of the United States  
30 and the District of Columbia.

31 (c) All references in this part to income determined pursuant to  
32 Section 25101 shall also mean income determined pursuant to this  
33 section.

34 *SEC. 57.6. Section 25117 is added to the Revenue and Taxation*  
35 *Code, to read:*

36 *25117. (a) Except as otherwise provided, income taken into*  
37 *account by all affiliated entities whose income and apportionment*  
38 *factors are determined pursuant to Section 25110 shall include*  
39 *income described in Subpart F of the Internal Revenue Code*  
40 *(commencing with Section 951). The income that is taken into*

1 *account shall for all purposes be treated as a dividend actually*  
2 *paid, and be subject to any provision or limitation related to the*  
3 *treatment of dividends, including, but not limited to, Sections*  
4 *24344, 24410, 24411, and 25106. The amount taken into account*  
5 *shall be treated as business or nonbusiness income as defined in*  
6 *Section 25120, as the case may be.*

7 *(b) In the application of Subpart F of the Internal Revenue Code:*

8 *(1) Exclusions from gross income under Section 959 of the*  
9 *Internal Revenue Code, relating to previously taxed income, shall*  
10 *apply, including amounts related to income previously taxed under*  
11 *federal law in years prior to the water's-edge election.*

12 *(2) Federal adjustments to stock basis made pursuant to Section*  
13 *961 of the Internal Revenue Code, relating to adjustments to basis*  
14 *of stock in controlled foreign corporations and of other property,*  
15 *including adjustments made prior to the water's-edge election,*  
16 *shall apply.*

17 *(3) The provisions of and any reference to Section 1248 of the*  
18 *Internal Revenue Code, relating to gain from certain sales or*  
19 *exchanges of stock in certain foreign corporations, shall not apply.*

20 *(4) Section 960 of the Internal Revenue Code, relating to special*  
21 *rules for foreign tax credit, shall not apply.*

22 *(5) Section 965 of the Internal Revenue Code, relating to*  
23 *temporary dividends received deduction, shall not apply.*

24 *(6) For purposes of this section, a federal election to exclude*  
25 *from Subpart F income the income described in Section 954(b)(4)*  
26 *of the Internal Revenue Code shall apply, including amounts*  
27 *related to income previously taxed under federal law in years prior*  
28 *to the water's-edge election. No election under this subparagraph*  
29 *shall be allowed for state purposes unless a valid election was*  
30 *made for federal purposes.*

31 *(c) In the event that a water's-edge election is terminated, for*  
32 *taxable years thereafter, the following rules apply:*

33 *(1) Subpart F of the Internal Revenue Code shall not apply,*  
34 *except as provided in this subdivision.*

35 *(2) Section 959 of the Internal Revenue Code, relating to*  
36 *exclusion from gross income of previously taxed earnings and*  
37 *profits, shall apply, but only to the extent attributable to income*  
38 *that has been taken into account pursuant to subdivision (a) during*  
39 *the period of the water's-edge election.*

1 (3) *Stock basis shall be determined as if this section did not*  
 2 *apply, except that stock basis shall be:*

3 (A) *Increased by income taken into account pursuant to*  
 4 *subdivision (a) during the period of the water's-edge election.*

5 (B) *Reduced by both the following:*

6 (i) *That portion of amounts excluded from income under*  
 7 *paragraph (2) of subdivision (b) that are attributable to income*  
 8 *taken into account pursuant to subdivision (a) during the period*  
 9 *of the water's-edge election.*

10 (ii) *Amounts described by paragraph (2) of subdivision (c)*  
 11 *excluded from income after termination of the water's-edge*  
 12 *election.*

13 (d) (1) *Except as provided in paragraph (2), this section shall*  
 14 *apply to taxable years beginning on or after January 1, 2008.*

15 (2) *In the event that two or more taxpayers subject to the same*  
 16 *election under Section 25110 have different taxable years, this*  
 17 *section shall apply as of the first day of the first taxable year of*  
 18 *those respective taxpayers that begins on or after January 1, 2008.*

19 (e) *If a distribution with respect to earnings and profits from a*  
 20 *given year is eligible for treatment as previously taxed income and*  
 21 *would, without regard to the application of this section, be eligible*  
 22 *for deduction, exclusion, or elimination under another section*  
 23 *under this part, if paid as a dividend, in no event shall the*  
 24 *combined effect of those sections and the rules relating to*  
 25 *previously taxed income result in a deduction, exclusion, or*  
 26 *elimination greater than the amount of the earnings and profits*  
 27 *that apply to the distribution.*

28 (f) *Subdivision (a) of Section 24425 shall not apply to amounts*  
 29 *excluded from gross income pursuant to this section or to amounts*  
 30 *deducted pursuant to paragraph (2) of subdivision (a) of Section*  
 31 *24411.*

32 (g) *The Franchise Tax Board may prescribe regulations as may*  
 33 *be necessary and appropriate to carry out the purposes of this*  
 34 *section.*

35 SEC. 58. ~~Section~~ *Sections 1 to 11, inclusive, of the Tax*  
 36 *Technical Correction Act of 2007 (Public Law 110-172), Section*  
 37 *426 of Division A of the Tax Reform and Health Care Act of 2006*  
 38 *(Public Law 109-432), Section 1 of the Disaster Mitigation*  
 39 *Payments Act of 2005 (Public Law 109-7), and Sections 402 to*  
 40 *413, inclusive, of the Gulf Opportunity Zone Act of 2005 (Subtitle*

1 A of Title IV of Public Law 109-135) enacted numerous technical  
2 corrections and clarifications to provisions of the Internal Revenue  
3 Code, including technical corrections and clarifications relating  
4 to *the Tax Relief and Health Care Act of 2006 (Public Law*  
5 *109-142)*, *Title XII of the Pension Protection Act of 2006 (Public*  
6 *Law 109-280)*, the Tax Increase Prevention and Reconciliation  
7 Act of 2005 (Public Law 109-222), the Energy Tax Incentives Act  
8 (Title XIII of the Energy Policy Act of 2005) (Public Law 109-58),  
9 the Working Families Tax Relief Act of 2004 (Public Law  
10 108-311), the American Jobs Creation Act of 2004 (Public Law  
11 ~~108-311~~), ~~the American Jobs Creation Act of 2004 (Public Law~~  
12 ~~108-357)~~, the Jobs and Growth Tax Relief Reconciliation Act of  
13 2003 (Public Law 108-27), the Victims of Terrorism Tax Relief  
14 Act of 2001 (Public Law 107-134), the Economic Growth and Tax  
15 Relief Reconciliation Act of 2001 (Public Law 107-16), *Tax Relief*  
16 *Extension Act of 1999 (Public Law 106-170)*, the Internal Revenue  
17 Service Restructuring and Reform Act of 1998) (Public Law  
18 105-206), the Taxpayer Relief Act of 1997 (Public Law 105-34),  
19 the Omnibus Budget Reconciliation Act of 1990 (Public Law  
20 101-508), the Omnibus Budget Reconciliation Act of 1987  
21 (Revenue Act of 1987) (Public Law 100-203), some of which are  
22 incorporated by reference into Part 10 (commencing with Section  
23 17001), Part 10.2 (commencing with Section 18401), and Part 11  
24 (commencing with Section 23001) of Division 2 of the Revenue  
25 and Taxation Code. Unless otherwise specifically provided, the  
26 technical corrections and clarifications described in the preceding  
27 sentence, to the extent that they correct or clarify provisions that  
28 are incorporated by specific reference into the Revenue and  
29 Taxation Code, are declaratory of existing law and shall be applied  
30 in the same manner and for the same periods as specified in the  
31 Disaster Mitigation Payments Act of 2005 (Public Law 109-7),  
32 the Gulf Opportunity Zone Act of 2005 (Subtitle A of Title IV of  
33 Public Law 109-135), the Tax Reform and Health Care Act of  
34 2006 (Public Law 109-432), *the Tax Technical Correction Act of*  
35 *2007 (Public Law 110-172)*, or if later, the specified date of  
36 incorporation.

37 SEC. 59. (a) Except as provided in subdivision (b), the  
38 amendments made to Sections 19179, 19443, and 21015.5 of the  
39 Revenue and Taxation Code by this act shall apply to returns filed,

1 submissions made, and issues raised on or after the effective date  
2 of this act or January 1, ~~2008~~ 2009, whichever is later.

3 (b) The amendments made to Sections 19179, 19443, and  
4 21015.5 of the Revenue and Taxation Code by this act shall be  
5 applicable for submissions made or issues raised after the date on  
6 which the Secretary of the Treasury or the Franchise Tax Board  
7 first prescribe a list under Section 6702(c) of the Internal Revenue  
8 Code or subdivision (c) of Section 19179 of the Revenue and  
9 Taxation Code, respectively.

10 (c) *The amendments added to Sections 24411 and 25110 of the*  
11 *Revenue and Taxation Code by this act, and the addition of Section*  
12 *25117 to the Revenue and Taxation Code by this act, shall apply*  
13 *to taxable years beginning on or after January 1, 2008.*

14 SEC. 60. The Legislature finds and declares that the  
15 amendments made by this act to the Revenue and Taxation Code,  
16 incorporating, by reference, the amendments made by Sections  
17 827 and 828 of the Pension Protection Act of 2006 (Public Law  
18 109-280) to Section 72 of the Internal Revenue Code, shall apply  
19 in the same manner and for the same periods as specified in  
20 Sections 827 and 828 of the Pension Protection Act of 2006 (Public  
21 Law 109-280). The Legislature finds and declares that this act  
22 serves a public purpose by providing equitable treatment for  
23 reservists called to active duty and emergency service personnel,  
24 and ultimately, benefitting all of the citizens of this state.

25 SEC. 61. (a) Except as provided in subdivision (b), the  
26 amendments made by the enactment of this act to the Revenue and  
27 Taxation Code, incorporating, by reference, the amendments made  
28 by Section 1220 of the Pension Protection Act of 2006 (Public  
29 Law 109-280) to Sections 501 and 513 of the Internal Revenue  
30 Code, shall apply in the same manner and for the same periods as  
31 specified in Section 1220(c) of the Pension Protection Act of 2006  
32 (Public Law 109-280).

33 (b) The provisions of Section 1220(c) of the Pension Protection  
34 Act of 2006 (Public Law 109-280), relating to effective date, are  
35 modified as follows:

36 (1) The phrase “beginning on or after January 1, ~~2007~~ 2008”  
37 shall be substituted for “beginning after the date of the enactment  
38 of this Act” in Section 1220(c)(1) of Public Law 109-280.

39 (2) The phrase “described in Section 23701d or Section 23701f”  
40 shall be substituted for “described in paragraph (3) or (4) of section

1 501(c) of the Internal Revenue Code of 1986” in Section 1220(c)(2)  
2 of Public Law 109-280.

3 (3) The phrase “January 1, ~~2007~~ 2008” shall be substituted for  
4 “the date of the 2008” enactment of this Act” in each place that it  
5 appears in Section 1220(c)(2) of Public Law 109-280.

6 SEC. 62. The Legislature finds and declares that the  
7 amendments made by this act to Section 17952.5 of the Revenue  
8 and Taxation Code make that code compatible with the technical  
9 changes made by Public Law 109-264 to Section 114 of title 4 of  
10 the United States Code, relating to limitation on state income  
11 taxation of certain pension income, and do not constitute a change  
12 in, but are declaratory of, existing law and shall be applied in the  
13 same manner and for the same periods as specified in Section 1  
14 of Public Law 109-264. The Legislature finds and declares that  
15 this act and the retroactive application contained in the preceding  
16 sentence are necessary to clarify that the Legislature intended for  
17 Chapter 506 of the Statutes of 1996 to apply to certain retired  
18 partners. Additionally, the Legislature finds and declares that this  
19 act serves a public purpose by ensuring the fair and consistent  
20 application of California law to “qualified retirement income”  
21 received on or after January 1, 1996, for any part of the taxable  
22 year during which the taxpayer was not a resident of this state and,  
23 thereby, preventing unnecessary litigation to determine the  
24 taxability of that “qualified retirement income.”

25 SEC. 63. The Legislature finds and declares that the  
26 amendments made by this act to Section 24949.5 of the Revenue  
27 and Taxation Code, the addition of Section 24329 to the Revenue  
28 and Taxation Code, and the incorporation by reference of the  
29 amendments made by Section 1 of the Disaster Mitigation  
30 Payments Act of 2005 (Public Law 109-7), which amended ~~Section~~  
31 *Sections* 139 and 1033 of the Internal Revenue Code, in the  
32 Revenue and Taxation Code, conform California law to the  
33 amendments made to Sections 139 and 1033 of the Internal  
34 Revenue Code by Section 1 of the Disaster Mitigation Payments  
35 Act of 2005 (Public Law 109-7) and do not constitute a change  
36 in, but are declaratory of, existing law and shall be applied in the  
37 same manner and for the same periods as specified in Section 1  
38 of the Disaster Mitigation Payments Act of 2005 (Public Law  
39 109-7). The Legislature finds and declares that this act and the  
40 retroactive application contained in the preceding sentence are

1 necessary to clarify that, when the Legislature enacted the exclusion  
2 from gross income for disaster relief payments in Chapter 807 of  
3 the Statutes of 2002, it intended to exclude disaster mitigation  
4 payments from gross income and treat sales and exchanges under  
5 certain hazard mitigation programs as involuntary conversions.  
6 Additionally, the Legislature finds and declares that this act serves  
7 a public purpose by ensuring the fair and consistent application of  
8 California law to all property owners, many of whom are  
9 low-income people, that have taken or will take necessary  
10 preventive measures to mitigate risk of harm and property damage  
11 from disasters, thereby saving lives and reducing the need for  
12 future taxpayer assistance.

13 *SEC. 63.4. Section 8.6 of this bill adds Section 17144.5 to the*  
14 *Revenue and Taxation Code, which provides amendments related*  
15 *to Section 108 of the Internal Revenue Code. Senate Bill 1055 also*  
16 *adds Section 17144.5 to the Revenue and Taxation Code, which*  
17 *also provides amendments related to Section 108 of the Internal*  
18 *Revenue Code. Section 8.6 of this bill shall not become operative*  
19 *if (a) both bills are enacted and become effective on or before*  
20 *January 1, 2009, and (b) each bill adds Section 17144.5 to the*  
21 *Revenue and Taxation Code.*

22 *SEC. 63.5. (a) The amendments made to Section 19166 of the*  
23 *Revenue and Taxation Code by Section 28.6 of this act conform*  
24 *to federal changes made to Section 6694 of the Internal Revenue*  
25 *Code by Section 8246(b) of the Small Business and Work*  
26 *Opportunity Tax Act of 2007 (Public Law 110-28). Those*  
27 *amendments are substantially the same as amendments previously*  
28 *made to Section 19166 by Chapter 656 of the Statutes of 2003 and*  
29 *by Chapter 691 of the Statutes of 2005.*

30 *(b) The amendments made to Section 19166 of the Revenue and*  
31 *Taxation Code by this act do not affect the operative date of the*  
32 *changes made to Section 19166 of the Revenue and Taxation Code*  
33 *by Chapter 656 of the Statutes of 2003 and by Chapter 691 of the*  
34 *Statutes of 2005.*

35 *SEC. 64. This act provides for a tax levy within the meaning*  
36 *of Article IV of the Constitution and shall go into immediate effect.*

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